

New Zealand's Women Working Free?

A Decade of Change

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ABSTRACT

This thesis examines the effects and impacts of the Employment Contracts Act 1991 on women in non-standard from 1991-1999 in New Zealand. It addresses the need for qualitative research that gives voice to the experiences of women in non-standard work. The research model developed in this thesis is informed by feminist methodology. It is argued that the traditional methods of recording employment statistics and of conducting survey interviews do not account for the personal experiences of the respondents. This study combines three techniques: analysis of published literature, analysis of employment statistics and in-depth qualitative interviews with six women in non-standard employment.

Examination of the political context of the enactment of the Employment Contracts Act 1991 highlighted varied expectations of the legislation. Political parties, feminist researchers and interest groups differed in their assessment of the implications of the Act for women in non-standard work. The study compares these views with statistical data and the findings of interviews with women in non-standard work.

It is argued that the Act has had a significant effect on women. The flexibility of employment created by the Act has enabled women with young children to work by lifting the constraints on time, as well as the responsibilities of child-care. However, flexible working hours imposed significant constraints on women's private time and the results of the interviews suggest that the affects of the Act are different for women who no longer require flexibility in work in order to work around child-care responsibilities.

In conclusion, this discussion gives a new perspective to the study of the effects of the Employment Contracts Act 1991 by supplementing analysis of political debate and

statistical records with opportunities for ordinary women workers to reflect on their experiences. This indicative study provides a basis for further research in this area.

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GLOSSARY OF MAORI TERMS

[NB: unless indicated, all translations come from H. Williams, Dictionary of the Maori Language, (7th ed) GP Publications, Wellington, 1971 (reprinted 1992).]

Hapu: section of a large tribe, clan

Iwi: nation, people (also commonly translated as 'tribe')

Whanau: extended family

CHAPTER ONE

WHY STUDY THE EMPLOYMENT CONTRACTS ACT 1991?

1.1 Introduction

This study examines: In what ways and to what extent did the Employment Contracts Act 1991 affect female workers in non-standard employment between 1991 and 1999 in New Zealand?

The Employment Contracts Act 1991 (ECA) changed the nature of employment relations in New Zealand. Prior to 1987, the labour market in New Zealand was protected and regulated by the state through legislation and state support of the unions. The ECA marked a direct turnaround in labour market policy, to a deregulated and unprotected market free from state intervention. It was expected that the ECA would have a profound effect on the participants within the labour market, both advantageous and disadvantageous. The ECA introduced a new system where the individual worker was given the responsibility to negotiate an employment contract with her or his employer and voluntary union membership was introduced.

Following the enactment of the ECA, the overall trend towards part-time work has slowed. However, this is not the case for women, where the trend towards part-time and non-standard work has continued to grow. At present women are three times more likely to be in non-standard work than men. This thesis aims to examine the effects and impacts of the ECA on women in non-standard work.

New Zealand provides an ideal case study as labour market reform was expected to affect women and minority groups more than men. Proponents of the ECA argued that

women would have the incentive and opportunity to negotiate terms and conditions of employment that best suited their needs. While there has been a great deal of research into the labour market and changes to patterns of work since the enactment of the ECA, there has been surprisingly little research into how the ECA has affected women in work - particularly women in non-standard work. Furthermore, few studies provide a first hand account of the experiences of women under the ECA.

1.2 Why Study Labour Market Reform?

Feminists economists and feminist political scientists have contended that much standard economic and social science research is gender blind. They argue that the 'just add women' approach does not properly examine the effects of social policy on women. However, feminist writing on the effects of the ECA has overlooked the effects of the Act on women in non-standard work, the aim of this study is to fill some of those gaps.

The impetus for this thesis was borne out of my own experience as a part-time cleaner in Christchurch. I was working in a typical non-standard job, from Sunday to Friday, beginning at 6pm and finishing at 12am. I was employed in this job while also studying at university. My workmates were typically women with children, some of them were sole caregivers, and some of them held more than one job. I sometimes found it hard to juggle university studies, work and my responsibilities at home; I often wondered how much harder it would be if I had children to care for too. A contributing factor to my interest in the area of the labour market was that a number of family members were employed in non-standard jobs; they also had children to care for and were sometimes the sole caregiver for the children. Many of the women I worked with had been in work since before the enactment of the ECA in 1991. It is likely that their experiences of the

workforce had changed dramatically since the introduction of voluntary unionism and individual contracting and bargaining. I wanted to examine the experiences and views of women in non-standard work. Currently, there is no account of the experiences of women working under the ECA. This study aims to give a voice to the women who are employed in non-standard work.

1.3 Defining Key Terms

For the purposes of this study, work is considered 'non-standard' if: working hours fall outside the usual hours of 9am-5pm; if a working day is made up of split shifts; if the worker holds more than one job; if the work is on a contract basis; or if the work is on a casual basis. Some part-time workers are employed in non-standard work because of the timing of the hours worked.

Statistics New Zealand considers part-time workers to be those who usually work less than 30 hours per week (*Labour Market Statistics* 1999).

The Employment Contracts Act (1991) was enacted in 1991 and signalled a break from the industrial relations tradition in New Zealand. The Employment Contracts Act replaced the protected and regulated labour market with a deregulated and decentralised market. The preamble to the Act states, it is:

An Act to promote an efficient labour market and, in particular, ---

- (a) To provide for freedom of association:
- (b) To allow employees to determine who should represent their interests in relation to employment issues:

(c) To enable each employee to choose either---

- (i) To negotiate an individual employment contract with his or her employer; or
- (ii) To be bound by a collective employment contract to which his or her employer is a party:

(d) To enable each employer to choose---

- (i) To negotiate an individual employment contract with any employee:
- (ii) To negotiate or to elect to be bound by a collective employment contract that binds 2 or more employees:

(e) To establish that the question of whether employment contracts are individual or collective or both is itself a matter for negotiation by the parties themselves:

(f) To repeal the Labour Relations Act 1987

(<http://rangi.knowledge-basket.co.nz/gpacts/public/text/1991/ti/022.html>, accessed 1 March 2000).

1.4 Studying the ECA: An Overview

This thesis will examine the following research question:

In what ways and to what extent did the Employment Contracts Act 1991 affect female workers in non-standard employment between 1991 and 1999 in New Zealand?

To answer this question I posed the following supplementary questions:

1. What were the legislative provisions of the ECA 1991?

2. *How do they differ from past legislative provisions?*
3. *What effects of the ECA on women workers in New Zealand were anticipated in public policy and feminist literature?*
4. *In what ways and to what extent did political debates at the time address the implications of the ECA for women workers?*
5. *In what ways and to what extent have employment patterns changed in non-standard work between 1991-1999 in New Zealand?*
6. *How do women in non-standard work report their experiences of the impacts of the ECA?*

In order to answer the main research question I will consider the supplementary questions. Chapter one defines sets the scene and briefly contextualises the study. The key terms used in the study are defined in chapter one. Chapter two discusses the research methods used in this study. Chapter three reviews literature relating to the ECA and labour market reform. Discussion in chapter four focuses on the political context of the enactment of the ECA. Chapter five will discuss the analysis of the quantitative data and the findings of the key informant interviews. Chapter six will draw conclusions from the analysis of the data and discuss problems for further research.

CHAPTER TWO

RESEARCH METHODOLOGY

2.1 Introduction

As discussed in chapter one, this thesis asks: In what ways and to what extent did the Employment Contracts Act 1991 affect female workers in non-standard employment between 1991 and 1999 in New Zealand? This chapter reports on the methods used to address this question including: analysis of published literature, analysis of employment statistics and in-depth qualitative interviews.

There have been few empirical studies of the impact of the ECA in the labour market, particularly studies that report on the views of women workers who were affected by the ECA. Davidson and Bray (1994) conducted the first significant study of women in part-time work, with a focus on using key informant interviews. Brosnan and Walsh (1996) also examined the effect of the ECA through analysis of quantitative data collected from individual workplaces.¹

This study recognises that these methods are useful ways of examining the changes resulting from government policy. However, it has also been argued that a combination of the three methods used in this study would produce a more detailed account of the effect that the changes have had on women in non-standard employment (Devere, 1993: 127). This thesis research strategy therefore responds to Devere's call to augment quantitative research with in-depth qualitative analysis. In the next section I outline how

¹ These studies are discussed in detail in chapter three.

data collection proceeded, how participants were selected and what methodology I employed.

2.2 Research Strategy

When researching the Employment Contracts Act 1991 and its effects on female workers in non-standard work between 1991 and 1999 in New Zealand, I was guided by the following research questions that I initially posed in chapter one:

In what ways and to what extent did the Employment Contracts Act 1991 affect female workers in non-standard employment between 1991 and 1999 in New Zealand?

To answer this question I posed the following supplementary questions:

7. *What were the legislative provisions of the ECA 1991?*

8. *How do they differ from past legislative provisions?*

9. *What effects of the ECA on women workers in New Zealand were anticipated in public policy and feminist literature?*

10. *In what ways and to what extent did political debates at the time address the implications of the ECA for women workers?*

11. *In what ways and to what extent have employment patterns changed in non-standard work between 1991-1999 in New Zealand?*

12. *How do women in non-standard work report their experiences of the impacts of the ECA?*

2.2.1 Gathering Information and Data

The study period of 1991 and 1999 for data collation was established in the following way:: the ECA was enacted in 1991 and thus the statistics from that year can be used a benchmark to compare the data from 1999, 1999 was a useful timeframe to analyse as the ECA was enacted in 1991 and its repeal was imminent in 1999 following the general election result, in which the Labour Party returned to Government, after a nine year break, and in a coalition with the Alliance Party.

This study employed three different information gathering techniques. They were conducted over an 18-month time period, between 1999 and 2000, and sometimes they were undertaken concurrently. Three methods were employed to gather the data used in this study. They were: a literature review of the public debate of the topic, including media reports and Parliamentary debates; a review of the data collected by Statistics New Zealand on the structure of the New Zealand Labour Force by gender in the periods 1991, 1993, 1995, 1997 and 1999; and key informant interviews with 6 women in non-standard work in Christchurch. These methods and alternative research approaches are now evaluated in more depth.

2.2.2 Reviewing the Media Responses to the ECA

The media reports describing the virtues and woes of the ECA highlighted a number of issues that were relevant to this study. I reviewed newspaper and journal articles, and lobby group publications from 1991 to determine the points of interest for all parties. I subsequently reviewed published media reports in 1999 to establish opinions of the ECA eight years after its enactment. I wanted to know if the issues identified in 1991 paralleled or differed from those identified in 1999. This method of research was

important in order to set up a framework around which the effects of the ECA on women in non-standard work could be examined.

2.2.3 The Political Debate

The second stage of information gathering and processing focused on the need to examine the Parliamentary debate surrounding the ECA. The ECA was an important piece of legislation, specifically because it was the antithesis of Labour Party policy and the epitome of National Party policy. I felt that it was important to examine the debate in Parliament in this study in order to contextualise the political climate. I reviewed the Third Reading of the Employment Contracts Bill (Parliamentary Debates, 1991: 1647-1699), identifying and documenting the arguments presented by all political parties represented in the House.

Political debate was also found outside of Parliament. Lobby groups such as the New Zealand Business Roundtable, the New Zealand Employers' Federation and the Council of Trade Unions were committed to educating the population about the ECA. The lobby groups were prolific publishers during this period and often backed the position held by the political party that best mirrored their own beliefs. Some lobby groups (particularly women's groups) were not closely affiliated to one particular political party, rather they responded to policy as it affected their constituent members. In order to assess the positions of community activists and feminists groups, I reviewed articles in the feminist publication *Broadsheet* surrounding the time the ECA was introduced as well as reviewing publications by the New Zealand Business Roundtable and New Zealand Employers' Association.

The information collected in this process was useful in setting the parameters to be examined in this study. I wanted to find out if the expectations of MPs were fulfilled in reality. The results will be discussed in chapter six.

2.2.4 Testing the parameters and assessing the Information

I identified two methods of assessing the impact and effects of the ECA on women in non-standard work from 1991 and 1999. The first method involves examining the *Labour Market Statistics* (LMS) data from 1991 and 1999. The LMS is compiled from the Time Use Survey, the Quarterly Employment Survey and the Household Labour Force Survey, all of which are administered by Statistics New Zealand (SNZ). The three different surveys cover many areas of the labour market in New Zealand and consequently the LMS is a detailed synopsis of trends in employment. This thesis is concerned with the study of the effects of the ECA on women in non-standard work, to this end I analysed the data from the sections on employment (Part 4), and hours of work (Part 9). I isolated these sections because they deal specifically with people who were in paid work rather than people in the labour force who were unemployed. A number of the sections covered in the LMS were not relevant to this thesis.²

The resulting statistical information highlighted the problems inherent in relying on one type of information to show the effects of a phenomenon like a piece of legislation. The data mapped the quantitative changes in the employment of women, and this is part of the aim of the study.

² For example: Section 2: Business Activity; Section 7: Education and Training; Section 13: International Comparisons.

Overall, the quantifiable aspects of the labour market are widely surveyed and available, with SNZ publishing quarterly surveys and annual reports. However, there is very little information dealing with qualitative aspects such as the effect that labour market policies have on actors within the labour market. It is my intent to enquire into the work experiences and working conditions of the women already represented in the available statistics on women in non-standard employment. Therefore an important part of this study was to examine how women in non-standard work feel about the effects of the ECA on their home life, their free time, their personal lives, the effects on the lives of their children and finally the effect on the unpaid work that many women do in the private sphere.

Statistics in themselves are inconclusive in determining the effects of the ECA on women in non-standard work (Devere, 1993a). For example, the statistics showed that there were more women in non-standard work in 1999 than in 1991, however it is unclear how many women work in more than one job, be it part-time work or a combination of part-time and full-time. The statistics do not explain why some women work in part-time jobs that are often at non-standard hours and on worksites where they might be isolated. In order to remedy this, qualitative interviews, informed by feminist research methodologies, were used in this study.

2.3 Feminist Research Approaches

This study examines the experiences of women in non-standard work in New Zealand and aims to give a contemporary analysis of the situation of women in non-standard work. I aimed to investigate women's experiences in a way that produces rich qualitative data, thus adding another dimension to the quantitative data available.

Much of the criticism levelled at traditional survey techniques by feminist researchers is based on the belief that “...conventional interview research is conducted according to the male paradigm” where “...the values which are emphasised are objectivity, detachment, hierarchy and science” (Devere, 1993a: 127).³ Feminist research methodologists argue that this masculine paradigm approach to interviewing has consequences for the analysis of data. Oakley (1981) for example, argues that this paradigm allows for the interviewer to include:

[S]uch information as how many interviews were done and how many were not done; the length of time the interviews lasted; whether the questions were asked following some standardised format or not; and how the information was recorded (1981: 31)

However, the model does not encourage comment on the:

[S]ocial/personal characteristics of those doing the interviewing; the interviewees feelings about being interviewed and about the interview; interviewers’ feelings about interviewees; and quality of interviewer-interviewee interaction; hospitality offered by interviewees to interviewers; attempts by interviewees to use interviewers as sources of information; and the extension of interviewer-interviewee encounters into more broadly-based social relationships (Ibid: 31).

Oakley’s criticisms of traditional interviewing techniques are indicative of the stance taken by feminist research methodologists and provide the basis for feminist models of interviewing. Feminist research methodology advocates a model of interviewing where the relationship between interviewer and interviewee is vertical, but “the ‘view from above’ must be replaced by a ‘view from below’” (Devere, 1993a: 127). The aim is to

³ Devere draws from Oakley’s discussion of the ‘masculine paradigm’.

limit the imbalance of power inherent in the relationship between researcher and the research subject.

Devere developed a focus group approach to interviewing as a model that incorporates feminist research methodology. Devere's model was designed with the discipline of political science in mind because she argues:

Within the discipline of political science, the data on women has been gathered using predominantly the survey interview method. The use of this method seems to presume that a precise definition of social phenomena is possible, and that validity is a matter of techniques properly applied...It has been argued that the 'dominant mode of analysis inhibits a sociological understanding of women's experiences' and that some of the methods used are alienating and exploitative, designed to advance the career of the researcher rather than exploring possibilities for change (Ibid: 127).

Devere's study aimed to examine "a women's perspective on matters political and sociological" (Ibid: 127). She conducted focus groups because "it seemed to address many of the problems created by survey research" and "[t]he direction of the discussion is to a large extent determined by the respondents rather than by the researcher" (Ibid: 128). Devere's focus group approach was designed to help eliminate the hierarchical relationship between the researcher and the research subject; the discussion is not a "question and answer session" but a discussion between the participants (Ibid: 128).

It was important that I developed a research method that was informed by feminist research methodologies, specifically because there are very few New Zealand political studies conducted along these guidelines. In addition, this study is concerned with examining the effect of the ECA on *women* in non-standard work in New Zealand; this lends itself very well to employing a feminist research methodology.

It was beyond the scope of this study to conduct focus groups, however I endeavoured to incorporate some of the principles of Devere's model into my interviewing approach.

I was concerned that the women I spoke with did not feel as though they knew nothing about politics or the ECA. Prior to the interview, I provided the participants with a list of discussion points I hoped to cover during the discussion. I hoped that in doing so the women would feel confident in talking to me. I found that the participants appreciated this measure and that they felt confident in discussing their experiences.

2.3.1 Selecting Interview Participants

The key informant interviews were an integral part of this study; I interviewed six women who worked in non-standard employment in Christchurch. The women were selected through a snowballing peer recommendation approach using friendship networks. As Devere (1993a) suggested, this selection technique ensured women were comfortable with talking to me as they knew others who had spoken to me or knew of me and therefore, as Devere notes, tended to feel more comfortable with discussion of sensitive topics such as work and income patterns.

The participants in the key informant interviews represented a diverse cross-section of women in non-standard work in Christchurch. Of the six participants, one woman works in a rural hotel as a cleaner and a cook, she is married and has two young children. Another is a residential care worker in a private service provider, she has one child and is in a de facto relationship. Three of the women who were interviewed worked as customer service agents for an airline, one woman is married with three young children, she also runs a farm with her family; another is the sole parent to three sons in their early to late teens; the third is a married mother of two adult daughters.

I assured each participant that personal details would be anonymous in the thesis and informed each of her right to withdraw any information she gave me at any time. Each

participant signed a form of consent allowing the use of material discussed in the interview.

2.4 Summary and Reflections on Research Methods

In this study, I asked in what ways and to what extent did the Employment Contracts Act 1991 affect the labour patterns of female workers in non-standard employment between 1991 and 1991 in New Zealand. To address this research question I asked six supplementary questions which have been outlined in this chapter and used a variety of research methods including a review of published literature, media debates and parliamentary reports, employment statistics and in-depth qualitative interviews.

It is useful to reflect on the research methods used. Overall, the strength of in-depth interviews was that it provided some rich qualitative data to supplement the published employment statistics but, as noted above, future studies with more resources could extend this approach with peer conversations involving small groups of women in focus groups. This alternative approach might stimulate even more reflection on the effects of the ECA by prompting more issues than those identified in one on one in depth conversations. Using the peer recommendation method encouraged the women to feel confident in discussing their experiences with me, and there was a degree of trust present, based on the knowledge that a friend also participated in the study. However, as the women recommended friends as participants all were of one ethnic background. Future studies need to explore the topic with a view to examining the experiences of women from different ethnic backgrounds.

Discussion in the remainder of this thesis now turns to answering the research question and supplementary questions identified above. In chapter three I address the following supplementary questions: what were the legislative provisions of the ECA 1991?

Second, how do they differ from past legislative provisions? And third, what effects of the ECA on women workers in New Zealand were anticipated in public policy and feminist literature?

CHAPTER THREE

LITERATURE REVIEW

3.1 Introduction

The growth in the number of women in part-time employment in New Zealand has attracted increased attention over the last decade. The literature examining this area is eclectic and is addressed by sociologists, historians, feminists and political scientists. Discussion about women in part-time work is often coupled with analyses of the state sector reforms, in particular, reform of the social welfare system, health system and the state housing system. However there have been surprisingly few studies that have specifically examined the effect of the Employment Contracts Act (1991) on New Zealand women's employment patterns.

Discussion in this chapter provides an overview of labour market reform and the Employment Contracts Act (ECA) and summarises Treasury arguments about why the ECA was necessary. The next chapter (Chapter Four) will provide a context for this discussion, examining the way the ECA was part of a wider package of social policy changes in New Zealand and reviewing the political debates that surrounded the introduction of the ECA. Before that however, this literature review examines existing research on women's employment in New Zealand. I will argue that while there is much research into social policy reforms and the effects of these on unemployed women, there is comparatively little discourse on the impact of labour market reforms on workers in non-standard employment, particularly women workers in New Zealand.

Discussion in this chapter highlights work by Davidson and Bray (1994) and Brosnan and Walsh (1996). Both of these studies are significant, as they were the first studies to assess the situation for women in employment in relation to the ECA. However these studies draw competing conclusions. Discussion in this chapter concludes with a review of feminist calls for more research into the gendered outcomes of labour market restructuring in New Zealand. This chapter considers questions one, two, and three:

- 1. What were the legislative provisions of the ECA 1991?**
- 2. How do they differ from past legislative provisions?**
- 3. What effects of the ECA on women workers in New Zealand were anticipated in public policy and feminist literature**

3.2 Labour market reform and the Employment Contracts Act

The ECA was a result of neo-liberal ideology based on the notions of individual freedom and minimal state interference. A general discussion of the reform of the social welfare system will be provided in chapter four, this discussion is important because it contextualises the reform of the labour market and the effects of this. It is sufficient to say here however that policy makers believed that an efficient labour market would be created by encouraging individual workers to contract with her or his employer. It was assumed that a virtue of a labour market is that it does not discriminate based on gender, race, sexual orientation or religion (Treasury, 1987).

Prior to 1991 New Zealand had a relatively centralised, regulated and protected labour market, despite various legislative reforms aimed at deregulating the labour market. The Employment Contracts Act 1991 (ECA) was the epitome of economic reform in New

Zealand. The main tenets of the ECA were deregulation of the labour market, removal of worker protections, and freedom of association in contract bargaining. However, the overriding goal of the reforms was to create a flexible regulatory framework that "...needs to be permissive enough to allow arrangements to emerge that are mutually beneficial to workers and employers" (Treasury, 1987: 278). Specific areas targeted for reform included: compulsory unionism, centralised bargaining, national awards, occupation based bargaining and government wage fixing (Kelsey, 1997: 174). These areas were targeted because they were perceived to be impediments to an individual's freedom of choice in employment relations. Kelsey writes:

Advocates of deregulation insisted that a protected labour market posed a fundamental barrier to New Zealand's economic efficiency and international competitiveness. Without radical and rapid change the Rogernomics revolution would fail. As economic deregulation, state sector restructuring and the emerging recession began to bite, workers and unions struggled just to cope with the mounting redundancies in the public and private sector (Kelsey, 1997: 175).

Treasury argued that individual contracting should be "[t]he overriding principle for a sound system of industrial relations" (Ibid: 281). The move to individual contracting allowed reformers to also call for voluntary unionism. The claim was that unions should be more accountable and flexible and that they should be subject to the forces that any other organisation in competing in a market is subject too. That is, unions should have strong incentives to represent the interests of their members, otherwise their members can choose to affiliate with another representative body (Ibid: 281). As we will see in chapter four, critics of the ECA argued that the scope and power of unions was diminished by the new regulations. Prior to voluntary unionism a new union could only be formed where the workers that it represents were not covered by an existing award or agreement and existing unions could block the formation of a new union by perpetuating an award. Treasury and employers' organisations further argued that this

greatly contributed to the inflexibility of the labour market because it did not allow employers to make the necessary changes to their labour pool as dictated by the market and the economy, that is, there is no flexibility. Following voluntary unionism a minimum of 1000 members was required before a union could be registered.

Centralised arbitration was targeted because reformers believed that it was fundamentally unfair for all workers in an industry to be covered by an award that had been negotiated on their behalf regardless of whether or not the interests of all workers had been represented by the union. National awards covered all workers in any industry and were regarded as being unfair to the employers within that industry because it does not allow employers and workers to agree to wages below the minimum award as prescribed by the union and it "...means the opportunity cost of idle labour resources and the equity costs implicit in the uneven incidence of unemployment are unlikely to be adequately accounted for" (Ibid: 284).

I turn now to consider the effects of the ECA's new provisions on workers and particularly women.

3.2.1 Studies on the Effects of Labour Market Reform on Women

The effect of the labour market reforms is an area that has been extensively researched and there is a body of literature that deals with the dynamics of the labour market, especially under the ECA (Hammond and Harbridge, 1993; Hill and Du Plessis, 1993; Mulgan, 1993; Wilson, 1993; Davidson and Bray, 1994; Brosnan and Walsh, 1996).

In 1993 (Suffrage Year, celebrating one hundred years of women's suffrage in New Zealand) the *New Zealand Journal of Industrial Relations* (Vol. 18:1) published a

volume of articles discussing the overall theme of women and the ECA. There has been little work done in this area since that publication. In general the authors of these studies have raised concerns about the potential effect of the ECA, they highlighted issues about: applying a legal liberalist model of contracting that stresses impartiality on a society that was not impartial; the effect of the ECA on bargaining outcomes for workers in low paid work; and the effect on unions.

Hammond and Harbridge (1993) question the appropriateness of applying the principles of impartiality onto a social system that is not impartial and posit that "...a legal regime based upon the principles of 'freedom of contract' has no advantage for women workers and that, in fact, women are less well off under such a system" (Hammond and Harbridge, 1993: 16-17; 28; 29). They argue:

By implying principles of impartiality and failing to recognise actual inequalities, the system is perpetuating and preserving social inequalities. Legislation such as the Employment Contracts Act, founded as it is upon the ideals of legal and economic liberalism, assumes that we live in a classless, genderless and ethically homogenous society (Ibid: 17).

Hammond and Harbridge argue that women will be greatly affected by the bargaining process as it stands under the ECA:

To argue that women will achieve freedom and equal bargaining status in a predominantly masculinist bargaining process is to disregard the structural impediments that women face in pursuing equality in the labour market. Freedom is also contingent upon one's freedom to choose whether or not to enter a relationship. If one's choices are constrained, then freedom is limited. Working women's choices are restricted by a gender segmented labour market. Free market ideals of freedom, mobility and flexibility are fictional for those women workers who are channeled into low paid, dead end occupations (Ibid: 17).

Hammond and Harbridge produced a study that was very much focussed on the quantitative data describing the impact of the ECA on women.

Hill and Du Plessis (1993) aimed to discuss the issues facing women in employment with a view to guiding further study in the areas identified as problematic. Hill and Du Plessis argue that an outcome of the ECA is that women in scattered or isolated worksites are less likely to be represented by a union than workers in visible and well organised. The authors examined the outcomes of negotiation for clerical workers, nurses, and cleaners unions and their members (Hill and Du Plessis, 1993: 34-41). The authors discuss outcomes of negotiation under the ECA:

As we have seen, the outcomes of negotiations under the Employment Contracts Act for clerical workers, cleaners and nurses are shaped not just by the Act, but by their employers' responses to actual or anticipated competition in their industries, their location in either the public or private sectors, and political pressures for certain types of negotiations.

And:

Women's position in the labour market and past industrial relations difficulties experienced by industrially weak groups of workers have made it likely that the Employment Contracts Act would have a particularly problematic impact on women workers (Ibid: 41).

In 1986 Brian Easton wrote *Wages and the Poor* where he concludes that "Today, in 'god's own country', a significant number of people are living in poverty. Yet they are not, by and large, beneficiaries, solo mothers or old people: many are wage earners with families" (1986: Abstract). The notion that working people are facing poverty has been largely overlooked since Easton and the focus has moved to unemployed people. Certainly there has been very little research about the impact of the ECA, coupled with the social welfare reforms on female workers in non-standard employment. This provides the impetus for this thesis to study the effects of the reforms on females employed in non-standard jobs between 1991-1999.

3.3.1 Davidson and Bray; Brosnan and Walsh

Earlier studies by Davidson and Bray (1994) and Brosnan and Walsh (1996) are of more particular relevance to the position of women in non-standard employment in New Zealand. Carl Davidson and Marianne Bray (1994) were commissioned to study “the extent to which women in part-time employment enjoy the minimum conditions of employment to which they are legally entitled” (Davidson and Bray, 1994: 23) In examining the working conditions of women in part-time employment the authors focussed their study on women working part-time in four sectors, the retail sector; the service sector; the education sector; and the health sector. They sought to examine and understand how women felt about part-time work; what their motivations were behind seeking part-time employment; the barriers to participating in full time employment and the connection that part-time work has to unpaid work (Ibid: 23). The authors conducted ‘key informant interviews’ where:

[T]he ‘key informants’ were employer or employee representatives in the four sectors,⁴ and provided an insight into the trends related to part-time work in each, the employment conditions for part-time workers, and what had changed for part-time workers in the last few years⁵ (Ibid: 14).

Davidson and Bray’s study is important in the discussion of the changing nature of work in New Zealand. They discuss the transformation of part-time work since the mid 1980s, and what constitutes part-time work today. The authors posit that there has been a rapid increase in flexible work patterns, specifically in casual work, temporary work,

⁴ Retail, service, health and education.

⁵ It should be noted that the authors interviewed 38 women working in the four sectors in Wellington, Christchurch and Rotorua (Ibid: 14).

shift work, weekend work and job sharing and are a result of a drive to increase efficiency in the labour market; a government policy initiative since the mid 1980s. The authors highlight a number of issues that arise out of the changed nature of part-time work in New Zealand. They posit that the most significant of these changes are intensification and underemployment (Ibid: 30-31). Intensification calls for workers to be more productive by 'working harder' rather than by 'working smarter'⁶, that is, new skills are not gained, rather the time that workers spend idle is reduced. Underemployment describes the situation where people want to work more hours than they are currently employed to do (Ibid: 30-31). The authors argue that this creates an 'involuntary' sector of part-time work which is an outcome of the "pursuit of flexibility" by public and private restructuring of the economic reforms (Davidson and Bray, 1994: 32). Women represent high numbers of workers affected by these phenomena.

A number of factors characterise the nature of part-time work including: a limited range of occupations; poor rates of pay; lack of security; and that women dominate part-time work (Ibid: 29). The authors argue that these characteristics are more likely to be found in the 'secondary labour force'. The secondary labour force is associated with a low skilled and lower paid work force in poor working conditions. The authors posit that the majority of New Zealand women are employed in the secondary labour force (Ibid: 21). Workers in the secondary labour force generally command lower wages, have fewer fringe benefits and workers are easily replaced because they are not highly skilled, and do not need to be (Ibid: 30). Conversely, the primary labour force generally requires highly skilled workers who are generally considered 'professionals'. The workers in the

primary labour force usually enjoy fringe benefits and good working conditions. There are few women working in the primary labour force. It is problematic that women are represented in increasing numbers in the secondary labour force because it is the more unstable sector. According to the authors, "Research shows that during the last twenty years, most of the growth in part-time employment has been in the secondary sector, in trade services industries such as clerical, sales, and service occupations, where women predominate (Ibid: 21).

Davidson and Bray drew some interesting conclusions about "the realities of part-time work" (Ibid: 16). The study showed that in 1994 there were large numbers of women who were working part-time because they had no other choice; there were an increasing number of women who wanted to work more hours which "indicates that expansion in the number of part-time jobs is not meeting the needs of those women"; and there were widespread concerns about the conditions associated with part-time jobs (Ibid: 20).

Why do women work part-time? This was one of the questions the authors sought to answer. Their findings show that there is not one answer to the question, rather there are a number of factors that at different times influence the decisions that women make in relation to their employment. Through the key informant interviews the authors concluded that women work part-time because of: supply and demand factors; time constraints; it fits in with family constraints, needs and expectations; some women felt that they had no choice, that is, they either could not find full time work or other commitments restricted them to the extent that they did not the time to work full time; other women choose to work part-time in order to meet new people or to be financially

⁶ Davidson and Bray, 1994: 30-31.

independent of their (predominantly male) partner (Ibid: 45-46). A significant finding from the study was that some women would like to work full time but there is limited full time work available. Overall, the majority of women did not want to work full time because of the above constraints. Davidson and Bray's study is useful because they factor into the equation that women tend to have more responsibilities outside of their working sphere and this constricts many of their choices, "You have to prioritise whether you want more money or time to do things"⁷ (Ibid: 48).

Davidson and Bray suggest the limited number of full time jobs available can, to some degree, be attributable to an overall 'casualisation' of some of the industries that women traditionally work in (Ibid: 49). For example the retail sector is almost totally casualised with few full time staff members. Many women working in supermarkets find their hours are subject to supply and demand, dictated by customer flow because the jobs that women tend to fill in supermarkets deal with customer service (Ibid: 40).

The minimum statutory rights of part-time workers are guaranteed at a certain level by the Holidays Act, 1981; the Parental Leave and Employment Act, 1987; and the Minimum Wage Act, 1983; and before the advent of voluntary unionism national awards protected the rights of workers in an industry to some degree. Davidson and Bray found that while the ECA does not overrule the minimum statutory rights, many women were either unaware of their entitlements or felt unable to push for their guaranteed conditions of employment for fear of jeopardising their jobs (Ibid: 62-63).

Davidson and Bray provide a useful basis with which to start studying the issues surrounding women in non-standard work following the deregulation of the labour

market and reform of the social welfare system. Their research suggests that for many women the Employment Contracts Act 1991 has not necessarily delivered on the promises of equality in contract bargaining, nor are they enjoying better employment conditions as a result of it. Davidson and Bray also shed light on the motivations behind women seeking part-time work or accepting part-time work. One of tasks of this thesis is to build from this research. This thesis will also examine the effects of the ECA on women in non-standard forms of work rather than specifically women in part-time work.

Peter Brosnan and Pat Walsh (1996) assessed the composition and size of the non-standard labour force following the enactment of the ECA. Their study drew competing conclusions to those of Davidson and Bray. Brosnan and Walsh concluded that the enactment of the Act had little effect on the overall composition of the non-standard labour force contrary to expectations (Brosnan and Walsh, 1996: 19). A summary of the results from the study conducted by Brosnan and Walsh follows.

Brosnan and Walsh argue that the structure of the workforce in 1995 was still made up of primarily permanent full-time workers; there had been little change between 1991 and 1995. The number of workers in permanent part-time work remained relatively stable at approximately 14 percent. The most significant change was found in fixed term employment, which trebled from 1.1 percent to 3 percent of the workforce. The number of people in casual employment also changed in this period. Table 3.1 from Brosnan and Walsh's research shows that in 1991 1.6 percent of the workforce was employed on a full time casual basis while 6.7 percent were employed on a part-time casual basis. In

⁷ A key informant in Davidson and Bray's interview process.

1995 however both groupings dropped to 1.4 percent and 4.0 percent respectively.

The occurrence of temporary employment did not grow significantly, as was expected. Temporary employment stood at 1.7 percent of the workforce in 1991 and grew to 2.6 percent in 1995 (Brosnan and Walsh, 1996).

The authors pay cursory attention to the effects of the changes in employment for women. They state that the data shows that throughout the period of 1991-1995 women were more likely than men to be in non-standard employment but that “the period of the ECA is not associated with an increase in non-standard female employment” because the size of the non-standard female labour force did not change during this time (Ibid: 8-9).

Both of these studies are significant and stand alone as they are the first of a growing area of study assessing the situation for women in employment in relation the ECA. Contrary to Brosnan and Walsh’s assertions that women in non-standard employment were not greatly affected by the implementation of the ECA, Davidson and Bray illustrate that clearly some women are very much affected by the policies and practices that the Act advocates but the nature of the effects are not clear. Conversely, Brosnan and Walsh’s study looks at gender and the labour force, but they treat men and women as individual and equal entities within the labour market. There is no accounting for the fact that many women may be expected to run a household as well as work; women with children may feel an expectation to be full time mothers while trying to make ends meet financially (Waring, 1988).

TABLE 3.1: STRUCTURE OF THE LABOUR FORCE BY GENDER FROM BROSNAN AND WALSH'S STUDY⁸ (SCALE %)

	MALE			FEMALE		
	1991					
	Full time	Part-time	Total	Full time	Part-time	Total
Permanent Workers	80.4	4.0	84.4	57.5	25.5	83.0
Fixed-term workers	0.8	0.4	1.2	0.4	0.7	1.1
Apprentices	2.1	0.0	2.1	0.6	0.0	0.6
Temporary workers	1.1	0.6	1.7	0.9	0.9	1.8
Casual workers	1.3	4.0	5.3	2.0	10.0	12.1
Contractors/Consultants	3.8	1.3	5.1	0.5	0.8	1.3
	1995					
	Full time	Part-time	Total	Full time	Part-time	Total
	Full time	Part-time	Total	Full time	Part-time	Total
Permanent Workers	77.7	6.5	84.2	57.5	25.3	82.7
Fixed-term workers	2.3	0.4	2.7	1.9	1.5	3.4
Apprentices	1.7	0.1	1.8	0.6	0.1	0.6
Temporary workers	1.3	0.9	2.3	1.3	1.7	3.0
Casual workers	1.2	2.2	3.4	1.6	6.3	8.0
Contractors/Consultants	4.1	1.0	5.2	0.6	0.6	1.2

Source: Brosnan and Walsh, 1996: 11, Table 2.

⁸ I have copied the table provided by the authors in *Plus ça change...: the Employment Contracts Act and non-standard employment in New Zealand, 1991-1995*, Table 2, page 11.

3.4 Feminist Responses to Economic Restructuring and the Employment Contracts Act (1991)

The economic reforms, started in 1984 by the Fourth Labour Government, spurred many feminists and feminist organisations to respond to the principles underlying this restructuring of the economy. Feminists argued that while the principles of New Right ideology might espouse equality, they have gendered outcomes (Du Plessis, 1992; Hyman, 1994). Feminists argued that the notion of the market delivering fair and more equitable outcomes for women is particularly problematic if women ‘start off disadvantaged’ (Du Plessis, 1992: 217; Armstrong, 1992; Dann and Du Plessis, 1991; Else, 1992; Hyman, 1994; Sayers, 1991, 1992; Waring, 1988).

Feminist Voices: Women’s Studies Texts for Aotearoa/New Zealand (1992) is an important volume of feminist writing on the state and women in New Zealand. It was published at the height of the economic reforms in New Zealand. Its analysis is useful for our study of the effects of the ECA on women. For example in “Stating the Contradictions: the Case of Women’s Employment” Rosemary Du Plessis discussed what she believed was the contradictory nature of government policy during the Fourth Labour Government and the subsequent National Government. Du Plessis focuses her chapter on the complexities and contradictions in state policy associated with women and employment and discusses the Labour and National party policies in detail before examining the ECA. She argues that Labour policies were contradictory to usual party policy, but in the context of the policy direction of the Fourth Labour Government, they were not surprising. The Fourth Labour Government pursued monetarist and minimal state policies and was “in many ways a classic example of the pursuit of unevenness and contradiction” (Du Plessis, 1992: 213). It treated social policy and economic policy as

separate entities that did not have influence on each other and the policies were a result of the lobbying by many different groups; this in turn resulted in policies that were inconsistent and contradictory (Ibid: 213).

Du Plessis concludes that Labour's employment policy for women was somewhat muddled. Labour responded to calls from feminists for equal employment opportunities for women and other disadvantaged groups with the enactment of the Employment Equity Act (1990). The act was a double edge sword because it provided the opportunity to improve the position of women in paid work, but it was also designed to minimise state intervention in industrial relations. Du Plessis argues that because of this the Employment Equity Act worked against women:

Major innovations such as the Employment Equity Act, which had the potential to improve the position of some women in paid work, were combined with strategies which seemed to work against the interests of women workers, especially those concentrated in low paid sections of the labour force in which women are the majority—clerical work, cleaning, hotel and shop work (Ibid: 215).

According to Du Plessis the National Government was not as contradictory as Labour because it never claimed that it was committed to helping women or the disadvantaged except through the sponsorship of individual endeavour. National's policy direction was to promote fairness for all and to break the cycle of dependency on the state; it would do this by encouraging people to rely on family or whanau for support before turning to the state (Ibid: 216-217). Du Plessis sees this as the major weakness in National's policies because on the one hand it advocates individual enterprise and autonomy, while on the other it is structuring its social policy around dependence on family members, that is, "this pursuit of fairness does not involve treating people as individuals, but as family members" (Ibid: 217). Du Plessis' objection is that "[w]omen are over-represented

among those who are thereby constructed as dependants in a society in which independence and individuality are increasingly the ideal” (Ibid: 217).

Du Plessis argues that National claimed to be committed to improving the position of women in paid work⁹ but repealed the Employment Equity Act (1990) and instead pursued the enactment of the ECA. National pursued the principle of ‘freedom’ in its employment policy. Du Plessis concludes that freedom to contract and bargain under the ECA resulted in unequal outcomes for actors within the labour market and this is in conflict with the party’s overriding principle of liberalism which “assumes that everyone will benefit from decreasing intervention by the state in industrial relations and the economy” (Ibid: 218).

Anne Else has also been a critic of the New Right and the effect of market oriented politics on the lives of women and their families. Else (1992) argues that women suffer from the impact of these policies because they are likely to utilise ‘public services’ more than men (1992: 239). Women are more likely to be on relatively low incomes and are also “expected to provide invisible free labour to fill the resulting gaps” (Ibid: 239-40) and “[a]s workers, they are clustered in those occupations and situations where they are most in need of safeguards against exploitative wages and conditions” (Ibid: 240).

In “To Market and Home Again: Gender and the New Right” Else discusses the role of gender relations in new right ideology, specifically in libertarianism and authoritarianism. Else argues that these strands of political thought treat ‘economy’ as a “value free, unarguable, universalized description” of how society actually functions.

⁹ Concomitantly the National Party paid little attention to feminists calling for a redirection of state policy because of the detrimental effects on women (Ibid: 219).

This is contrary to Else's perception of the economy as gendered and a "culturally and historically contingent model of how society ought to function, or could be made to function" (Ibid: 240).

The two strands of New Right ideology identified by Else treat the market and the family very differently. Libertarian rightists concentrate on the 'free' market and "takes the family for granted", while the authoritarian right focuses on the importance of the "traditional family" and places less emphasis on the market (Ibid: 241). These emphases are reiterated in the distinction between public and private spheres. The market is the public sphere and the family makes up the private sphere. Within the market, individuals are self-interested, self-motivated, rational and independent; within the family, individuals are replaced with the notion of 'family members'. The identity of a family member is "formed and embedded in altruistic, emotional and long-term relations with unique 'significant others' ". The rules of the family require the individual to act appropriately or face exclusion from the family, and ultimately loss of her or his identity. If an individual behaves inappropriately, she or he is only likely to be punished through material hardship" (Ibid: 241-2).

Else focuses on the effects of these ideological strands on social policy in New Zealand, specifically she examines Treasury's paper "The Role and Goals of Social Policy". Else's research is relevant to our interest in the effect of the ECA on women in that Else argues that Treasury's use of gender-neutral language masks the way that policy reforms are not gender neutral. For example she argues that Treasury's recommendations for social policy remained based on the assumption that the traditional family will complement the market, that is, that it is "functioning through the

familiar male/female division of both natures and roles” (Ibid: 243). Treasury links social policy with employment in the labour market because:

The most important set of policies are those which provide a consistent framework for the growth and development of the economy. It is the processes of production, distribution and exchange which are the basis of our economic wealth and also central to the quality of our social life (Else quotes Treasury, 1987: 394).

Additionally, Treasury places significance on unpaid work within the family, whanau, iwi and other private sphere social institutions. Unpaid work outside the market is crucial to social policy because it complements the work done by people in the market and it provides support systems for those people who require help. This is a problematic notion for many feminists as it reinforces the traditional role many women are expected to fulfil, that is to be altruistic, caring and supportive in the private sphere, and self-motivated and rational actors within the labour market. Else replies to this view:

This tension between rational self-interest and irrational altruism, between the opposed natures of the market individual and the family member, can be resolved only by assuming the existence of the traditional family, with its ‘market men’ and ‘family women’ (Ibid: 244).

The gendered economy is problematic for women because they are expected to embrace aspects of both functions¹⁰, as worker (a male function) and as mother/carer/wife (a female function). If a woman ‘chooses’ to enter the labour market, it is to supplement the family income, while also being the primary caregiver for children; men are attached to families as earners not caregivers.

¹⁰ Or both ‘natures’ (Else: 248).

Prue Hyman is a feminist economist who has remained actively critical of free market ideology, or orthodox economics,¹¹ since 1984. Hyman (1992) contributed a chapter to the *Feminist Voices* volume, “The Use of Economic Orthodoxy to Justify Inequality: a Feminist Critique”. Hyman’s hypothesis is that orthodox economics, that is the model followed in New Zealand since 1984, is inadequate because it ignores power imbalances, it exacerbates existing inequalities, and it is biased against people and groups who do have less access to resources and opportunities (Hyman, 1992: 252). Hyman disputes the claims that are often made within orthodox economics: that “there are no alternative frameworks within economics”; and that its analysis is a value free, descriptive method (Ibid: 253).

Hyman analyses the concept of choice in relation to the ECA. The concept of choice comes out of the assumption that individuals make choices in conditions of scarcity. The buyer and seller, or transactors, would not have contracted with each other if either were going to be disadvantaged as a result. Ultimately, “market transactions by definition involve free choice” (Ibid: 255). The ECA is based on the principle of freedom of choice within the labour market. It assumes that the labour market is no different from any other market; thus, all of the actors in it are free and equal. Hyman argues that there is an inherent power imbalance between employer and employee, specifically because one is selling her or his labour and is in a less powerful position as a result. The only time that the person selling her or his labour is likely to be in a powerful position is if their skills are particularly scarce (Ibid: 255). Gender is a factor in explaining constraints on freedom of choice in the market. Gender influences the

¹¹ Often the terms ‘orthodox economics’ and ‘New Right ideology’ are used synonymously (Du Plessis, 1992). Hyman (1992) has used both ‘neoclassical’ and ‘orthodox’ economics.

labour market because women often have to deal with unpaid and invisible work as well as their paid work. This limits the actual choices that women have (Ibid: 255).

The use of policy language that seemingly justifies the inequalities women is of particular concern to Hyman. Her arguments alert us to the way that labour policy can justify negative impacts on women. For example Hyman argues that New Zealanders have become familiar with terms like 'choice', 'incentives', 'freedom' and 'poverty trap'. These ordinary terms have been co-opted by economists and free market advocates and form 'double speak' (Ibid: 262-3):

The supposed 'poverty trap' caused by an 'insufficient' gap between benefit levels and wage opportunities is said to encourage welfare dependency (Ibid: 262-3).

And:

Incentives to be in paid work become in fact punishments for not being in that category. Solo mothers, for example, may find considerable difficulty in rejoining the paid workforce, through a shortage of vacancies, a lack of suitable training, child care being neither readily available nor affordable, and discrimination against women with dependents. They might then be permitted a certain scepticism about the need for an incentive to rejoin the paid workforce in the form of a lower benefit (Ibid: 263).

In 1994, Hyman published *Women and Economics: a New Zealand Feminist Perspective*, a comprehensive discussion of economics and the effect its application can have on women. Hyman argues that the orthodox model ignores feminist analyses of economics. It is a result in part of the 'gender blindness' that afflicts many traditional economists who continue to analyse economics in a way that ignores the differences in the lives of men and women.

Hyman highlights five sub-categories of feminist criticisms of the orthodox economics, they are: the overall framework of consumer theory; the methodology of orthodox

analysis; the definitions of economic activity; orthodox economics' analysis of discrimination; and the lack of attention paid to social and economic outcomes (Hyman, 1994: 14). Hyman argues that a significant part of the problem with orthodox economics is that when economists think they are being gender neutral they are more often than not being blind to gender. Gender blindness occurs when "analyses, systems and policies appear to be universal but in fact use methodologies, assumptions and practices which systematically disadvantage women. Thus they are not gender neutral in effect" (Hyman, 1994: 13). Feminist critiques are often ignored because they are located outside the analytical frameworks employed by orthodox economics; Hyman argues that the frameworks are inadequate to analyse the impacts on women (Ibid: 14).

The orthodox model centres on the economically rational man who aims to maximise his own utility or satisfaction. The framework does not allow for interdependence between individuals, that is, it assumes that people are self-motivated and in competition with each other for scarce resources (Ibid: 22). The model expects that people (read men) engage in paid work in order to maximise their utility through the remuneration that allows them to consume; unpaid work does not have a remunerative value attached to it, and therefore is not part of the model. Feminists criticise this model of economics because it excludes unpaid work, which renders the work of many women in the public and private sphere valueless. Feminists argue that the household, caring and community work is of the same value as paid work (Ibid: 22).

Feminist economist Marilyn Waring (1988) also remind us that traditional economic analysis has failed to capture the full effects of labour policies on women. For example

unpaid work has been consistently omitted from definitions of economic activity,¹² to the dismay and chagrin of Waring. The reasons for this are varied but include the fact that economic theory only recognises activities that occur within a market. Feminists argue that omitting unpaid work statistics from the national economy statistics is problematic because it distorts the true picture. Prue Hyman states that economists tend to agree with feminists on this but for very different reasons. Economists argue that if economic models consider unpaid work then the impact of economic booms and recessions will be overstated:

In recent years there has been an increased or revived awareness, by most women at least, that unpaid work in the home and community is real work, even if it is seen as obligation and/or pleasurable. For the lucky, the latter applies as well to paid work (Ibid: 61-2).

Orthodox economics assumes a level playing field for all participants within a market, but in doing so, it ignores the different impediments and influences on the lives of women compared to men. In fact Hyman states “there is, in my view, no level playing field in economic theory and policy between women and men” (Ibid: 14). It is this belief that has many feminists at loggerheads with economists. According to Hyman:

The state has a key role in setting the frameworks which help determine economic and social possibilities and outcomes...[M]any feminists think it is essential for government to have a continuing leading role in helping all New Zealanders achieve social well-being, including a standard of living sufficient for participation and fulfilment in the community (Ibid: 157).

Waring and Hyman both argue that analyses of economic systems and policies do not generally assess the impact on social and economic outcomes in relation to gender (or ethnicity). When it is discussed “differential impacts are more likely to be seen as

¹² This is discussed at length by Waring (1988).

consequences of differences in women's behaviours than as partly a result of biases in systems or policies" (Ibid: 39).

Marilyn Waring also argues that the value of much of the work done by women¹³ in the private sphere counts for nothing in the national accounts (Waring 1988). Waring argues that within the United Nations System of National Accounts (UNSNA) or national accounts, people whose work is unpaid, for example in the home or in voluntary work, are non-producers because they do not exchange their labour for economic gain. This is more often the case for women than men because women tend to do more work in the home and for the home than men do. The national accounts system is the mechanism through which public policy is created. National accounts record a pattern of economic activity, which in turn is used to justify policies that are made. The system only accounts for the activities that generate cash or income, or that have a monetary value attached to them. Waring argues that unpaid work should have monetary value attached to them because it would render unpaid work visible and important. Waring does not enter the equal pay debate, or the debate about the invisibility of women's work in general. She argues for the recognition of the value of unpaid work for all people who participate in it.

Broadsheet is an alternative forum in which feminist researchers and activists have discussed a variety of policy reforms that affect women in New Zealand. Labour market reform and economic restructuring have been the focus of many articles published in the journal among other issues such as equal pay, childcare and unemployment. Indeed, until the enactment of the ECA in 1991 much of the focus in *Broadsheet* was on the

¹³ Among other things such as clean water and air, national parks and beaches.

struggle for equal pay and the effects of new right ideologies on the livelihood of New Zealand women.

In “Night Worker” (*Broadsheet*) Alison Aitken (1986) interviewed a Polynesian woman “TM” who was night cleaner in Wellington. TM believed that she had little choice in her employment because she did not speak English very well, which she is ashamed about. She was married with five children, her husband worked during the day. TM stated that she wanted a daytime job but she was unable to find someone to look after her children outside school hours. She did not enjoy going to work and ultimately did not enjoy living in New Zealand, as she felt isolated and alone (170-71). The themes that are highlighted by Aitken are continually discussed in *Broadsheet* as problematic for working women. The women who wrote in the journal used the publication as a mechanism for calling for better working conditions for women.

The enactment of the ECA also served to ignite more ire from women concerned about the conditions women were working and living under in New Zealand. Linda Hill (1992) for example lamented the loss of blanket union coverage for workers and the impact that voluntary unionism would have on women. She expected that women would miss out in contract negotiations because unions would find it difficult to organise the vast numbers of women who were spread out over many workplaces. This is a result of the numbers of women who working as individual workers on small worksites, such as commercial cleaners. Hill (1991) also discusses what she saw as the problem with the way we understand ‘work’. This followed a theme through much of the writing in *Broadsheet* and wider feminist writing circles, that is, the unpaid work done by women in the home is equally as important as the work done by men and women in the workforce and needs to be recognised by economists and the government.

3.5 Summary

The nine years of labour market relations under the ECA have provided critics, advocates and commentators with plenty of issues to discuss. However, there are gaps in the literature due to the myriad of issues facing workers in general and women in particular. This thesis is aimed at filling some, but not all, of those gaps. This thesis will examine the effects of the ECA on women in non-standard part-time work. In the following chapter I examine the political debate that surrounded the enactment of the ECA.

CHAPTER FOUR

THE POLITICAL DEBATE SURROUNDING THE ENACTMENT OF THE EMPLOYMENT CONTRACTS ACT 1991

4.1 Introduction

The enactment of the Employment Contracts Act 1991 (ECA) inspired fierce debate and polemic argument from many sectors of society in New Zealand. Some groupings were opposed to the Act, others were in favour of it, while some disliked aspects of the legislation but supported its principles. The purpose of this chapter is to examine the arguments in favour of, and in opposition to, the ECA. Discussion reviews the debates that surrounded the introduction of the Act and considers in what ways and to what extent key political players expected the ECA to effect women.

However, before examining these political arguments, it is useful to contextualise this debate. The ECA was introduced during a period of major social policy review. These social policy changes are relevant to our analysis of the ECA. These wider social policy changes both reflected prevailing assumptions about the ability of individuals to act freely and created conditions which effectively constrain the ability of some workers in low wage employment (particularly women) to bargain effectively (Fidler, 1991).

4.2 Social Welfare Reform: A Context for the ECA Debates

The Employment Contracts Act 1991 epitomised a period in New Zealand's economic history that saw government move away from a protected and regulated economy. The economic reforms, introduced in 1984 by the fourth Labour Government and continued in 1990 by the National Government, sought to encourage efficiency and to lessen state

intervention. This was designed to ensure that New Zealanders would act in their own interests without relying on the Government to provide the necessities of life unless it was absolutely necessary.

Social policy in New Zealand also went through many changes from the late 1980s until the early 1990s. Deregulation and economic efficiency were the fundamental goals of Treasury from 1987. Consequently, social policy makers were expected to take new factors into account when forming policy guidelines. In *Government Management: Brief to the Incoming Government* (1987) Treasury argued that the purpose of social policy is “to ensure the betterment of the position of individuals” (Treasury, 1987: 427). Treasury argues that social well-being is essentially a result of private activities and interactions and therefore, concluded that when assessing the effects of social policy making, “[i]t is impossible for policy makers to be aware of the personal difficulties facing all individuals” (Ibid: 427). Treasury assumed that individuals were inherently rational,¹⁴ altruistic, have free will, and have limited information available to them (Ibid: 430).

However, while Treasury assumed that individuals were inherently rational and had free choice, it acknowledged that some people in society do not always have the choices that others have. To counter this problem, Treasury argued that a function of social policy is “to explore which community structures will be the most successful in mobilising the (often non-altruistic) behaviour of individuals for the collective good of all people” (Ibid: 434). Community structures are found in the form of families, voluntary social groups, ethnic and tribal affiliations and other communities (Ibid: 434). From 1987,

social policy was constructed based on the individual being dependent on her or his family, whanau, hapu and iwi before turning to the mechanisms of the state for assistance. Consequently, state provided social welfare was reformed dramatically in 1991.

The social policy reforms had occurred simultaneously as the introduction of the ECA and consequently created some difficult problems for women. The social policy reforms covered a variety of interrelated areas including benefits, housing, national superannuation, health, and education. Until 1991, New Zealand's social welfare system in these areas was based on universal provision of state assistance. This was replaced with a targeted system based on 'genuine'¹⁵ need. The National Government hoped that this would encourage individual responsibility and foster an awareness of the cost of health care and state assistance. Social welfare reform encompassed a number of measures taken by the Government, the most far-reaching of which was the change in the level of a guaranteed standard of living. A 'safety net' was introduced which was "a modest standard below which people will not be allowed to fall provided they demonstrate they are prepared to help themselves" (Shipley, 1991: 13).

Reform of the social welfare system is significant for our discussion of the ECA and its effect on women in non-tradition work although there has been surprisingly little discussion in policy literature specifically about the impact of such reforms on women workers. Much of the literature concerning state sector reforms has dealt with specific sectors on an individual basis. For example, since 1987 there has been a multitude of

¹⁴ That is, Treasury argues that individuals tend to choose between options on the basis of general goals which they are personally pursuing (Ibid: 430).

¹⁵ As stated by Honourable Jenny Shipley, 1991: 11).

books and articles produced on the reforms of the government and state sector (Miller and Aimer, 1997; Roper and Rudd, 1993; Kelsey, 1997; Boston, St John and Dalziel, 2000). Generally, there are specific areas that command the most attention; they are the reforms of the social welfare system, reform of the labour market, and reform of the health system. While these areas have commanded much attention in isolation, there have also been authors from a variety of backgrounds who have recognised that these issues are interrelated and influence each other (Kelsey, 1995; Kelsey 1997; Cheyne, O'Brien and Belgrave, 1997; Roper and Rudd, 1993).

The health system was targeted for reform because it was believed that: rationalisation of the system would increase equality of access to health services; those on lower incomes would get fairer access and improved assistance; and rationalisation would lead to less abuse or over-use (Ibid: 59). The reforms of the health system meant that assistance was only guaranteed to those who needed it. Many New Zealanders subsequently fell outside of the new parameters of 'need' set in 1991. Targeting means that those who can afford to pay for their health care will be expected to contribute to the cost at a greater level than those on lower incomes do.

Another sector that was being reformed concomitantly was the state housing sector. Policy reforms in this sector saw rentals for state houses brought into line with market rentals, with state rentals being subject to the same influences from the market as private rentals. Prior to 1991 the state directed assistance at low income earners through the implementation of subsidised mortgage interest rates to encourage home ownership, and the direct provision of housing and accommodation benefits (McLeay, 1992: 170). National's leader Shipley argued that the previous system of state-subsidised assistance was discriminatory and wasteful (Shipley, 1991: 54). John Luxton (Minister of

Housing, National Government, 1991) stated that the reforms were intended to “encourage fairness, self-reliance, efficiency or personal choice” (Luxton, 1991; cited in Murphy, 1999: 219).¹⁶

In summary, a general discussion of the reform of the social welfare system is important because it contextualises the reform of the labour market and the effects of this reform. The effects of social policy reforms in health and welfare are generally well researched and debated. This may be because changes to these systems appear to have the most immediate impact on the lives of New Zealanders. Access to health care and income support were an integral aspect and expectation of New Zealand’s welfare state; this was dramatically altered with the introduction of economic reforms. The reforms meant that New Zealanders could no longer expect the state to financially support their health care, housing costs or living costs through wage supplements. This was coupled with the cutting back of income support. These measures served to force New Zealanders, both employed and unemployed, to make a greater contribution to, and take more responsibility for, their health care and living costs.

However as we shall now see in the following review of the debates about the ECA, opponents of the ECA argued that the effect of social policy reforms was to compound the difficult conditions for workers, particularly women in poorly paid jobs. The social policy reform imposed greater costs on workers, but women workers in particular would

¹⁶ The Accommodation Supplement was introduced to assist individuals in paying for their housing needs and was means tested to relate to an individual’s income and rent level. Every New Zealander who paid rent was now entitled to apply for the Accommodation Supplement, provided her or his housing costs exceeded the entry threshold set by the government. However, the system that it replaced was specifically targeted at helping those on low incomes or on the Unemployment Benefit where state housing tenants were only expected to pay 25 per cent of their income on rent.

not be in a strong position to use the ECA to bargain effectively for higher wages to enable them to meet the costs of social policy reform.

4.3 The Political Debates Surrounding the Introduction of the ECA

The remainder of this chapter documents the political debates that surrounded the introduction of the ECA. The following discussion notes that the National Party promised that the ECA would make New Zealand workplaces more egalitarian, productive and efficient. The Labour Party asserted that the result of the ECA would be increasing poverty, and that those already in marginalised jobs would continue to be disadvantaged. Outside Parliament, there were publications by women's groups, employers groups, business groups and non-governmental organisations (NGOs) who also contested the impact of the ECA.

4.3.1 The National Party

The National Party (National) stated in its' 1990 election manifesto that, should it win, it would introduce legislation that would deregulate the labour market in order to create flexibility and to enable New Zealand to "join the 'powerhouse economies of the world' and bring 'true democracy' to workplaces" (Walsh and Ryan, 1993: 16). The impetus for deregulation of the labour market came from lobbying by the New Zealand Business Roundtable (NZBR) and the New Zealand Employers' Federation (NZEf), and on the advice of Treasury (*Government Management: Brief to the Incoming Government*, 1987). Pro-ECA non-governmental organisations, the NZBR and NZEF, argued that the protected and centralised industrial relations system caused the economic woes New Zealand was experiencing. Kelsey discusses the lobbying of the NZBR and NZEF that

began in 1987, arguing that the Labour Government could not make the changes that these lobby groups were seeking as they were contrary to all Labour employment policy (1995: 174). While the Labour Government had made some changes to the labour law, they did not go far enough for the NZBR and NZEF. The Fourth Labour Government (1984) removed compulsory arbitration, followed by the Labour Relations Act (1987) which aimed to rationalise the union movement (Ibid: 174). Nevertheless, the impetus was still there to lobby for change as the reforms were not as comprehensive as expected by the NZBR and NZEF.

The National Party responded to the NZBR and NZEF arguments, following their election into government. National targeted five areas of the current industrial relations system. These were the national award system, occupation-based bargaining, centralised arbitration, government wage-fixing and compulsory union membership (Ibid: 174). National spoke of the need to increase efficiency and productivity, and a desire to encourage a flexible market that is responsive to the changing needs of the global economy through a decentralised system. It would do this through legislation that had five essential components to it: voluntary unionism, a bargaining structure that encouraged cooperation between the individual employer and employee, binding contracts, dispute resolution procedures and a minimum code of employment (Ibid: 16).

National was following a model of contracting and free enterprise whereby collective contracts would be as binding as are all other contracts in law. In drafting the policy, there was extensive debate about the role of specialist institutions in labour law. Treasury recommended the abolition of specialist institutions, for example the Mediation Service and the Labour Court, on the grounds that all actors in the bargaining relationship are free-thinking and free-acting individuals and as such did not require the protection of specialist institutions (Ibid: 23-24). The Council of Trade Unions (CTU) lobbied to retain the current services, while the NZBR supported the retention of these services with a view to opening them up to private providers. The NZEF lobbied for the complete abolition of the services because the application of the notion of fairness would hinder the deregulation process over time (Ibid: 24).

National argued that efficiency and greater productivity would be achieved when the costs of production were lowered. Because employers often claim that their greatest cost is wages, the ECA was designed to address the inequality of the relationship between the value of the worker and the cost to the employer. The ECA was designed to allow

‘the market’ to determine the value of a worker’s labour by removing national or enterprise awards, and by encouraging individual workers to negotiate with their employer to determine the conditions of their employment. National’s values of free enterprise have been summarised by Walsh and Ryan (1993):

This alternative view suggested that labour markets both are more efficient and deliver more equitable outcomes if they are freed from regulatory measures which distort price signals (Walsh and Ryan, 1993: 13).

4.3.1a Voluntary Unionism and Freedom of Association

The National Party also argued that voluntary unionism would encourage unions, if not force them, to be more responsive to the needs of their members. The resulting contracts would help to make workplaces more efficient and productive. Many in the National Party believed that unions had been given a legal right to assume responsibility for all workers in negotiating employment agreements regardless of whether individual workers’ wished to be represented. During the Third Reading of the Employment Contracts Bill, Max Bradford,¹⁷ stated the case for the Party:

All I can say is that New Zealanders should listen carefully to the siren song of the Opposition when it promises to repeal the legislation, because that would consign New Zealanders back to the ravages of compulsory unionism, of trade unions that have not always looked after the interests of their members and until now have had to depend on monopoly rights to own your job and my job. Those rights were conferred upon them by the State, not by their own efforts.

The legislation makes fundamental changes to the way in which industrial relations operate. Not only does it confer rights upon individuals to choose whether they will belong to a union but it also confers rights upon them to choose who represents them when they bargain collectively with their employers...The Bill is specific; employers have that right because it is conferred upon them very

¹⁷ Member of Parliament (Tarawera) and Chairman [sic] of the Labour Select Committee on the Employment Contracts Bill.

specifically and consciously. What is more, they will have the right to choose who represents them (Bradford, 1991: 1655).

Voluntary unionism would also ensure that New Zealanders would enjoy the same rights in the workplace as they do in all other areas of life. Those rights include freedom of association and freedom of representation. National argued it is about the individual's right to choose. The Labour Party promised that they would repeal the ECA when they were in Government to which Bill Birch¹⁸ replied:

It is my view that a Labour Government would never repeal the legislation. I challenge the Labour Party, if it were to become the Government, to repeal the legislation, and reinstate compulsory unionism. It would take away from ordinary New Zealanders the rights that will be obtained through this legislation to choose whether they belong to a union, to choose whether they bargain collectively—which seems to me to be a fundamental right—and to choose their bargaining agent or representative. Those fundamental rights are exercised by New Zealanders outside their work-place. From 15 May they will be able to exercise those rights in their work-place (1648).

A further change was that the ECA allowed employers and employees to structure their own bargaining arrangements. This process was directly related to voluntary unionism. The parties would have the choice of individual contracts, collective contracts, workplace or enterprise agreements, or they could elect to be covered by industry or national awards and could choose their own bargaining agents (Walsh and Ryan, 1993: 16). The concept of individual choice in bargaining relationships reflects the National Party's belief that a labour market is no different to any other, and thus is a level playing field. According to the National Party, all actors are equal within the labour market because it is a market. This hypothesis does not allow for the protection of workers who are in a weak bargaining position as it does not recognise that such actors exist. It highlights a phenomenon that was illustrated throughout the Parliamentary

Debates; the MPs who were in favour of the ECA did not recognise that there are workers who are vulnerable and have a weak bargaining position. The same MPs disregarded any notion of a gendered division of labour or the effects that the ECA might have on women. Margaret Moir (MP for West Coast) and Marie Hasler (Titirangi) were the only National MPs to mention women in the debate, and they were talking about themselves. Moir discussed the issue of freedom of choice:

We are looking at power for the people to negotiate. I speak from my own experience as a one-time union member, as an employer, as a negotiator, and, most important, as a woman. I am a pragmatic person. I am pragmatic because I know that New Zealanders will grasp this opportunity and make the most of it (1973).

Marie Hasler spoke from the perspective of an employer and a woman:

Another cliché often heard from the Opposition is that women will be the first victims. As an employer of women for several years, I can say that I do not think that women are intellectually or psychologically inferior. Like most employers, I wanted the best employees, and I therefore had to pay the best wages. If I could not pay those wages other employers often could. I found so often that it was the employees who held the stronger hand.

Today, the worker may be better educated than the employer; he [sic] may be more skilled than his boss; and these hard times he may—and sometimes does—earn more than his employer (1983).

Discussion in chapter three noted that there was a plethora of literature published in the few years before the ECA as a direct result of feminist action to increase awareness of the issues facing women in employment (Horsfield, 1988; Olsson, 1992; St John, 1991; Waring, 1988). In National's case, the arguments put forward by Hasler and Moir discussed above suggest that National did not place importance on the issues raised by

¹⁸ Minister of Labour, 1990-1993.

feminists and that they assumed that women are on an equal footing with men in the labour market.¹⁹

4.3.2 The Labour Party

The Labour Party, by contrast, attacked the principles of the ECA based on its belief that bargaining relations between employers and employees are inherently unequal. The arguments against the ECA were: that freedom of choice cannot exist when there is inequality in the bargaining position between employer and employee; that the labour market is different from any other market; that the ECA was anti-union and anti-worker in philosophy; that it would cause conflict and confrontation between employers and employees; it provides the opportunity for employers to exploit employees thus forcing wages and conditions down; and that it does not protect the workers who need protecting—including women (Cullen; Moore; Parliamentary Debates, 30 April 1991).

Individual freedom of choice in employment relations, that is, in electing a bargaining agent, was rejected by the Labour Party. Michael Cullen argued that the only freedom workers would have is the freedom to accept terms and conditions of employment regardless of their own wishes. During the Third Reading of the Employment Contracts Bill, Cullen said:

The legislation provides freedom but for many people it is a freedom not to do certain things. It is freedom for some and lack of freedom for others. As always when right-wingers talk about freedom they do not answer the questions, “Freedom for whom? Freedom to do what? Freedom to choose what?” It is freedom for the rich to oppress the poor; it is freedom to oppress the powerless; and it is freedom, indeed, for some who are in positions to operate it; but for those who cannot, for those in dispersed occupations, and for those in occupations

¹⁹ This will be discussed in detail later in the chapter.

dominated by the low-paid—particularly women, Maori, and Pacific Islanders—it is a freedom to say “Yes” to employers’ demands (Parliamentary Debates: 1650).

Graham Kelly (Labour MP for Porirua) argued that the legislation was not about freedom rather it was about power:

The legislation is not about freedom; it is about power—that is, using the power of employers in a depression. The legislation has been introduced in a climate in which there is fear and in an attempt not only to lower pay rates but to break unions entirely (Ibid: 1672).

4.3.2a Creating Conflict and Confrontation

A fundamental tenet of the ECA is that it removes the state legislated right of a union to represent workers within its industry. The Labour Party was opposed to this change because its own ideology states that there is an inequality inherent in the relationship between employer and employee. In the bargaining relationship this imbalance of power will manifest itself in the exploitation of workers and the worsening of working conditions (Moore: 1654; Dalziel: 1659; Caygill: 1663). The Labour Party argued that unions have a fundamentally important role in industrial relations in New Zealand. That role, as perceived by the Labour Party, sees unions protect workers who are vulnerable or are in a weak bargaining position. The party lamented what they considered the loss of worker protection. Kelly forecasted that the ECA would marginalise already vulnerable workers.²⁰ Historically the party had legislated to protect the rights of workers against exploitation of employers, thus the ECA was anti-worker according to

²⁰ Identified by the Labour Party as women, Maori and Pacific Island workers and workers in rural areas (see Cullen: 1650; Moore: 1653; Dalziel: 1660; Kelly: 1672-3).

the Labour Party because it does not guarantee protection from employers who may exploit workers.

Labour also argued that the ECA would exacerbate conflict and confrontation between employers and employees because both parties are aiming for different things in an employment contract. The employer would be aiming to keep production costs as low as possible and that would inevitably mean that wages will come down, while the employee would aim to get a fair deal in return for her or his labour.

The came forth from the Labour Party of particular relevance to women was the argument put forward by Elizabeth Tennet (Labour MP for Island Bay). Tennet focussed her attack on the effects of the legislation on low-paid workers and women in particular. She claimed that the National Party policy was specifically marginalising those groups because they are the groups that need unions the most and who tend to be represented the most by unions (Ibid: 1678). According to Tennet, flexibility means the ability to push down pay rates and decrease working conditions:

The legislation will not improve the economy, and it will not make unemployment better. It is obvious that it will lower wages, and Government members have a naïve philosophy that lower wages will equate with more jobs. I refer the House to an article in the *Examiner*—not exactly a great liberal left-wing newspaper—which states that decentralised wage bargaining will not shorten the dole queues. ...The reality is that lower wages do not lead to more jobs.

What will happen is that more money will be taken out of the economy. We have seen millions that have come out as a result of the benefit cuts. Wages will be lowered, meaning less money for people to spend, and that will hasten the downward spiral of the economy. That will result in more conflict in our community and I do not believe that small employers look forward to that. They will have tension in their work-places and resentment will develop (Ibid: 1677-8).

The ECA facilitated the shift from enterprise based agreements to individual contracts to create the flexibility needed to make New Zealand's labour market more attractive to foreign investors. The Labour Party argued that this would make it harder for workers to negotiate a collective contract. Kelly argued that many marginalised workers preferred to bargain collectively because they felt more confident doing so and knew how collective bargaining worked. He contends that the ECA removed this possibility for the workers:

The legislation removes the mechanism to allow those people to deal collectively—which is the way they feel most comfortable with. Given their lack of confidence and knowledge the collective approach is the mechanism that gives them the ability to bargain with employers on an equal basis (Parliamentary Debates: 1672).

The ECA was seen by some to represent the freeing of New Zealand workers from the shackles of industrial relations while others rued the demise of the protections that workers had enjoyed for nearly a century.

4.4 Lobby Groups and Published Debate

In addition to parliamentary debate, the introduction of the ECA sparked many groups and organisations to produce literature outlining their support or opposition to the legislation. The groups ranged from women's organisations to church groups to employer's organisations. Some of these arguments have been briefly introduced. In this section discussion examines these arguments in greater depth, particularly in terms of the effects the ECA was predicted to have on women workers.

4.4.1 Feminist Arguments Against the ECA

As has been noted, *Broadsheet* and the *Women's Studies Journal* were among the most prolific publications dealing with women's issues in New Zealand in the period when the ECA was introduced. The ECA provided an opportunity for authors in these publications to proselytise their beliefs and philosophies. Janet Sayers, for example, was vocal in her opposition to the ECA on the basis that the proposed bargaining structures will disadvantage women. Added to this was her concern about the position of women in the trade union movement itself, "Women are mainly marginalised into service, part time and domestic work and have a comparatively low level of trade union consciousness and membership" (Sayers, 1991: 161). Sayers puts forward a classic feminist argument couched in terms of the ECA:

Women are disadvantaged by the Employment Contracts Act as individuals, collectives of women, and in collectives of men and women. I believe the reason for this disadvantage lies in the emphasis of the Employment Contracts Act on an individualistic, anti-collectivistic philosophy that implicitly condones self-interested behaviour, thereby discriminating against more altruistic motivations (Ibid: 163).

Linda Hill also wrote a number of articles about the nature of work and, in particular, what work means for women. The argument put forward by Hill was that the ECA will have a detrimental effect on the welfare of women because often the work done by women is generally of a low paid and low skilled nature (Hill, 1991: 25). Hill contextualises the problem of women's work within the wider erosion of the social welfare system. The early 1990s saw the removal of the Family Benefit as part of the social welfare reforms, and Hill suggests this put more pressure on families, both two-parent and single parent, to make ends meet without state assistance. Hill argues that a pre-existing patriarchy is employed to utilise "women's work" in this type of situation:

[T]here's no real competition at work from all those exhausted mums, usually safely segregated in "women's" occupations anyway. Capitalism uses pre-existing patriarchy and transforms it into a new family form that keeps both capitalism and patriarchy going. Capitalism is just as happy to use racism as patriarchy, or more profitable still, both together. Maori and Pacific Islanders are getting the worst paid jobs and have the highest unemployment among New Zealand women, as their menfolk do among New Zealand men (Ibid: 25).

Megan Fidler similarly examined the position of working women, this time in the clothing industry in New Zealand. In the clothing industry sewing is considered women's work, however within the industry itself there is a disparity between the wages of men and women. Fidler examined the clothing industry in 1991 before the enactment of the ECA. At that time the average wage for men was \$82 per week more than women workers within the industry (1991: 14). Fidler compliments Hill's argument that women in the "women's work industries" will not be in a position to bargain effectively under the ECA and will often accept conditions that are unhealthy or poor just to ensure that they make ends meet (Fidler, 1991: 16).

Hill and Fidler are just two of many feminists who have written on the gender division of labour and the detrimental effects of the ECA. Following the enactment of the ECA there were a number of academic feminists writing about the position of women under the ECA (Du Plessis and Hill, 1993; Hammond and Harbridge, 1993; Mulgan, 1993; Ryan, 1993). The consensus among feminists within academia and women's organisations was that the ECA would enable further exploitation of women by a patriarchal system. The push towards individualism in bargaining structures and the move away from collective contracts and bargaining would force women to accept terms and conditions that were unacceptable considering their 'high care commitments' (Sayers: 165).

4.4.2 The New Zealand Business Roundtable

The philosophy of the NZBR as a corporate lobby group is based on neo-liberal principles and economic orthodoxy. It advocates freedom of individual choice, minimal state intervention in the lives of citizens, the protection of property and property rights and the virtue of the market. From 1984 to 1991, the NZBR lobbied the government to deregulate the labour market in order to encourage foreign investment and to create flexibility within the market. The NZBR boasted some very powerful New Zealand business people amongst its ranks and supporters. It would have been hard for any government to ignore the calls for deregulation made by the NZBR given New Zealand's reliance on an export economy. Part of the NZBR's strategy to influence government was to employ foreign economists and academics to write about the current situation in New Zealand, thus emphasising the need to take a global view in relation to the labour market.

Penelope Brook (1990) took quite a different view from the feminist arguments discussed. Brook was working for the NZBR when she wrote *Freedom to Work* and it was influential within that organisation. Brook discussed the virtue of the market and argued that a deregulated labour market empowers workers in their relationship with employers. She contended that it “protects employers against abuse by workers or collectives of workers” (1990: 16). Brook argues that while some employers have a degree of monopsony,²¹ they would be limited by knowledge that employees working in conditions that are less than those determined by the market will simply sell their labour to another employer for better conditions (Ibid: 17).

²¹ A “‘monopsony’ exists where a single employer is the sole purchaser of labour” (Brook, 1990: 17).

According to Brook, the nature of employment is very different in the late twentieth century; workers have more of their own resources to fall back on, as well as unemployment benefits. Brook concludes that workers are in a better position to quit a job with poor conditions and find a job with better conditions and, it must be remembered that the cost of losing workers can be very high. The employer can lose productivity, skills and reputation which, in turn, have the potential to elevate the cost of finding new staff (Ibid: 17-18). Added to this is Brook's assertion that abuse of power by employers was a 'legitimate concern' in "isolated single-company towns in the nineteenth century, when the geographical mobility of workers was low" (Ibid: 17).

4.5 Summary

This chapter has examined the different arguments in favour of and against the ECA. The debate surrounding the enactment of the ECA polarised sectors of society. Advocates of the ECA assumed that all workers would embrace the freedom that the ECA would accord them and that the market would sort out any other problems. Those in opposition to the ECA were expected to argue against all aspects of the Act. Interestingly, in reality there were some unusual alliances, for example Richard Prebble (Act Leader) voted against the ECA with Labour but for entirely different reasons. The Labour Party voted against what it saw as a lack of fairness in the legislation whereas Prebble voted against it because he believed that it was unworkable and would lead to confusion (Prebble, *Parliamentary Debates*: 1667).

Overall, however, one of the significant factors that came out of the debates is that those in favour of the ECA did not predict that there would be some sectors of the working population (particularly women in low paid work) who may be adversely affected by

the legislation because they would not be able to bargain effectively, thus they would be disadvantaged in the market. Discussion now turns to examine some of the actual experiences of women in non-standard work under the ECA between 1991-1999 in New Zealand.

CHAPTER FIVE

STATISTICAL ANALYSIS AND INTERVIEW RESULTS

5.1 Introduction

In this chapter I will discuss the findings of the examination of the statistical data and the interview findings. In doing so I will answer supplementary questions five and six posed in chapter two:

5. *In what ways and to what extent have employment patterns changed in non-standard work between 1991-1999 in New Zealand?*
6. *How do women in non-standard work report their experiences of the impacts of the ECA?*

5.2 The Quantitative Data

In this chapter I report on my analysis of data obtained from *Labour Market Statistics 1999* (LMS) (see table 5.1) which illustrates employment trends. I have analysed this data by gender, comparing labour patterns for men and women. I have collated the data from 1991, 1993, 1995, 1997 and 1999 and will compare and contrast the statistics for these years.

First, my analysis of LMS data between 1991 and 1999 only partially supports arguments recently published in the New Zealand Herald about the effects of the ECA on employment. In 1999 the New Zealand Herald reported that the growth of the number of women in non-standard employment was not as dramatic as expected when

the ECA was enacted; "...if anything, the shift towards part-time work has slowed since the act (the ECA) was passed" (*New Zealand Herald*, Thursday May 20, 1999: A13).

TABLE 5.1 SUMMARY OF THE LABOUR MARKET STATISTICS, 1991-1999

	Scale (000)				
	1991	1993	1995	1997	1999
Number of females employed:					
Full-time	419.4	420.6	450.8	488.0	483.3
Part-time	228.0	232.9	260.5	289.8	297.8
Number of females employed, by employment status:					
Paid employee	556.3	554.6	602.5	660.7	667.3
Employer	31.4	33.7	38.3	35.5	38.1
Self-employed and without employees	45.1	51.7	56.8	67.0	64.9
Unpaid family worker	13.0	11.4	10.8	13.7	10.7
Not specified	1.4	2.1	2.3	1.0	-
Females who hold multiple jobs:					
Full-time	14.6	11.5	14.4	17.2	16.9
Part-time	18.7	16.9	24.2	25.3	28.2
Females employed who are looking for another job:					
Full-time	28.6	28.4	35.9	42.8	39.5
Part-time	25.5	30.1	30.7	36.1	38.8
Females employed part-time who want additional hours of work:					
Prefer to work more hours	50.2	65.2	65.2	73.4	79.9
Looking for full-time work	9.6	12.8	12.8	12.5	14.5

Source: *Labour Market Statistics 1999*, sections 4 and 9.

My analysis of the LMS data (see table 5.2) supports the argument that the overall growth of part-time work has slowed. However closer examination of the data for women and men shows that the number of women in part-time employment, which is often of a non-standard nature and in the secondary labour force, has grown steadily between 1991 and 1999. The data in table 5.2 reveals that in 1991 there were 228,000 women working part-time, in 1995 the number had risen to 260,500 and in 1999 there were 297,800 women in part-time work. This is in contrast with the statistics for men, which were 73,300 in 1991, 86,300 in 1995 and 107,200 in 1999. Overall, in all years from 1991 to 1999, women were three times more likely to be in part-time work than men were.

TABLE 5.2 NUMBERS OF WOMEN AND MEN IN PART-TIME WORK, 1991-1999

Scale (000)

	Females	Males	Total Females and Males
1991	228.0	73.3	301.3
1993	232.9	83.3	316.2
1995	260.5	86.3	346.7
1997	289.8	98.4	388.2
1999	297.8	107.2	405.0

Source: *Labour Market Statistics 1999*, Table 4.2.

The increase in the number of women in non-standard work might be even higher if we take into consideration the number of women who identified as self-employed and without employees between 1991-1997 (see table 5.3). The figures reported in table 5.3 show that in 1991, 45,100 women identified as self-employed and without employees. This number rose to 51,700 in 1993, 56,800 in 1995 and peaked at 67,000 in 1997. The overall increase in the period was offset to some extent in 1999 with a slight reduction

(to 64,900) in the number of women who identified themselves as self employed with no employees. In comparing these results with the self-employment pattern for men I observed that there was a 48 % increase in this category for women while for men in the same period the numbers rose by 27 % from 113,600 in 1991 to 146,900 in 1997. (As with the women, there was a slight reduction in 1999, to 145,100).

TABLE 5.3 NUMBER OF PEOPLE EMPLOYED WHO IDENTIFY AS SELF-EMPLOYED AND WITHOUT EMPLOYEES

Scale (000)

	Females	Males
1991	45.1	113.6
1993	51.7	125.0
1995	56.8	128.1
1997	67.0	146.9
1999	64.9	145.1

Source: Labour Market Statistics 1999, Table 4.1.

The increasing numbers of women identifying as self-employed may be a result of some jobs being contracted out to workers; this means that jobs that were once done as part of a wider operation may now be contracted out to individuals. An example of this is found in some commercial cleaning companies; an increasingly common operating procedure is to contract with an employee to clean either a specific floor or building, rather than to enter into a general contract of employment that does not have a specified workplace. This scenario could result in the workers being categorised as contract workers rather than part-time workers.

My analysis of the LMS data between 1991 and 1999 also reveals that there was significant overall growth in the number of women in part-time work who held multiple

jobs (see table 5.4). Initially, in the period 1991 to 1993 the numbers of women in part time work who were recorded as holding multiple jobs fell from 18,700 to 16,900, however from 1993 onwards the trend was one of growth, with a significant increase in the number from 16,900 to 28,200 between 1991 and 1999.

TABLE 5.4 THE NUMBER OF PEOPLE IN PART-TIME WORK WHO ARE MULTIPLE JOB-HOLDERS

Scale: (000)

	Females	Males
1991	18.7	6.2
1993	16.9	7.3
1995	24.2	7.3
1997	25.3	10.0
1999	28.2	10.6

Source: *Labour Market Statistics 1999*, Table 4.11.

The LMS data also reflects a steady growth in the number of women employed in full-time work who either hold another job or are looking for another job (see table 5.5). It is unclear from this result if the women in the latter category want an additional job or a different job altogether. However it may be assumed that at least some of the women in the latter category do want an additional job. There may be a number of reasons for this. For example, for statistical purposes, a job is considered full-time when a person works over 30 hours in a week. That does not mean that every person who works full-time is working a full 40 hours a week.²² As a result, a number of women recorded as employed in full time work may actually be looking for more hours of work.

²² This is the case for the purposes of both Statistics New Zealand and income support institutions.

TABLE 5.5 NUMBER OF PEOPLE EMPLOYED PART-TIME WHO ARE LOOKING FOR ANOTHER JOB

Scale: (000)

	Females	Males
1991	25.5	13.4
1993	30.1	19.3
1995	30.7	17.1
1997	36.1	19.7
1999	38.8	23.7

Source: *Labour Market Statistics 1999*, Table 4.13.

This discussion highlights a wider problem that can arise if one relies solely on quantitative data to understand trends in work patterns and the causes or effects of these trends. Statistical information does not go into the detail of the structural reasons or individual experiences or motivations that can help us explain the labour patterns of women in non-standard work.

A related phenomenon that was revealed in the analysis of the LMS data is the growing number of women in part-time work who want additional hours of work. The LMS measures categories of women who would either prefer to work more hours or work full-time. In 1991 50,200 women in part-time work wanted additional hours of work, the number increased to 65,200 in 1993 and 1995 and 73,400 in 1997, and finally in 1999 the number of women who wanted additional hours of work stood at 79,900 (see table 5.1)

Overall, my analysis of the LMS data as it relates to non-standard work reveals that, contrary to the general trend, the shift of women toward part-time or non-standard work has not slowed, but has in fact continued to grow steadily throughout the period that the ECA was in effect. While chapter three highlighted some of the issues relating to

women in non-standard work present in the literature, this chapter goes on to consider the impact of the ECA on six women interviewed by the researcher.

5.3 The Qualitative Data: What Women Think about Non-Standard Work

Between December 2000 and March 2001 I conducted key-informant interviews with six women who worked in non-standard jobs in Christchurch. The purpose of the interviews was to discuss with these women the effects and impact of the ECA on women in non-standard work. The interview findings are indicative only. The sample is small and is drawn from a snowballing method of referral beginning with two women I initially knew who had working in non-standard employment. Therefore these results do not represent the views of the majority of women in non-standard work. However, the points made by the participants are significant because they record the stories and experiences of women, indicate issues for further research, and can provide an insight into the effects of the ECA which cannot be achieved through analysis of statistical data. We covered a number of themes in the interviews which are discussed in the following sections. These themes were: the flexibility of working hours, motivations for taking non-standard work, effects on unionisation and bargaining, attitudes to remuneration levels, and job satisfaction. First, however, I will provide a brief personal profile of the women I interviewed.

5.3.1 Six Canterbury Women in Non-Standard Work: A Profile

Angela²³ is a 46 year old woman of New Zealand European/Pakeha descent. She is the mother of three boys aged, 11, 13 and 17. She is divorced from the boys' father and is the sole parent of her children. Angela feels that she is in good health, except for chronic tiredness which she sees as a result of her job. Angela is a customer service agent for an international airline.

Ellen is a 26 year old woman of New Zealand European/Pakeha descent and is the mother of two children aged two and four years. She is married. She feels that her health is good and is not often affected by her job. Ellen is a cleaner and cook at a rural pub/hotel.

Amanda is 27 years old and of New Zealand European/Pakeha descent. She is the mother of one boy, aged seven, and she is expecting another child. Amanda is soon to be married. She is in good health. Amanda is a residential care worker looking after intellectually disabled people for a private service provider.

Charlotte is in her mid-forties and of New Zealand European/Pakeha descent. She has two daughters 18 and 20 years old. She is married and in good health. She is a customer service agent for an international airline.

Sarah is in her late 30s to early 40s, and is a New Zealand European/Pakeha. She is married and has three children aged four, nine and 11. She believes that she is in good health. She is also a customer service agent for an international airline.

²³ In accordance with the agreed terms of the interview process, the names of the participants have been changed to ensure anonymity.

Hannah is in her late 40s and is a New Zealand European/Pakeha. She is married with three boys aged 16, 18, and 21 years of age. She believes that she is in relatively good health. Hannah is a night shift nurse at a public hospital.

Having provided a portrait of the women who generously gave me the benefit of their time, thoughts and experiences, I now turn to discuss what these women said about their experience of non-standard work since the introduction of the ECA.

5.3.2 Flexibility of working hours

The first theme that was identified as being important for some of the participants was flexibility in working hours. For example, the women who were customer service agents all valued the flexibility they had in their jobs. In particular they talked about the flexibility of being able to swap shifts with their co-workers. Angela is a customer service agent for an airline. Her job is part-time, with 23 working hours per week guaranteed. Angela works split shifts, sometimes beginning at 4am. Angela finds that the flexibility suits her:

Angela: In my case split shifts does[sic] suit me to some extent because part of my day starts at 4am and goes until 7am, so I can do that work without it impacting on the kids at all. The only person it impacts on is me because I get tired from not enough sleep. But it does suit me in some ways to work at that time of the day as part of my working day.

The split shifts were the result of the airline wanting to be more efficient; because the job is organised around the departure and arrival of flights, workers employed for an eight hour shift are likely to spend a significant amount of time being unproductive. Angela commented that:

Angela: Previously they had people who worked an eight hour shift because they weren't working split shifts and they were employed as full time employees but they would sitting around twiddling their thumbs for a large part of the time. It really was the only way to go. It made sense for the employer and while it doesn't suit everybody, it suits me. I think younger people find it quite hard because they can't really have a social life, because when you are getting up at 3am, you can't really go out at night.

Another woman, Charlotte, who works for the airline also as a customer services agent says that she does not necessarily require much flexibility in her life away from work, but others do and that is where the flexible nature of their job is useful:

Charlotte: The flexibility in our job means that if one of the others needs to swap a shift so that they can go to their kids' school things, or if the kids are sick, we swap shifts between us. If we worked in traditional full-time work then we would not be able to work it out between us.

However, the flexibility enjoyed by their employer can sometimes be problematic for the workers, especially for those who have children or who live a considerable distance away from the workplace. Sarah discusses the effect that split shifts can have on her day, literally 'consuming' her time:

Sarah: A problem for me is that when I have split shifts I find that my day is consumed by work. They can start at 4am and go until 5:30pm. We get paid an extra \$9 a day when we do them, but we used to be paid more for split shifts. After the ECA came in, we lost time and a half for split shifts and double time for weekends. Now they can spread the work from one end of the day to the other. We did agree to a new condition where split shifts can only spread over a total of 15 hours in a day. I feel used and abused by the airline, particularly when they know that we feel like we have to agree to a shift change...[or] someone else will take the work.

Similarly, Amanda is a residential care worker for a private service provider. She enjoys some flexibility in her job, although her employer utilises the option of flexible work hours to a greater degree than she is able to, as the following comments demonstrate:

Amanda: I worked part-time and my working days vary. I work four on, two off. If I am working days, then I start at 7am and work till 1pm, from Monday to

Friday. If I am working weekends or public holidays then I start at 8am and finish at 12 noon. I work from week to week, so I don't really know for sure what my work hours will be until the new week.

Another woman interviewed, also commented that the flexibility of hours in her job was a problem because she was not sure from one week to the next when or if she would be working. Ellen works for a pub/restaurant in a rural town. She is employed to do two jobs for the one employer. Ellen cleans the pub from 9am-11am seven days a week on a permanent basis; she also works in the kitchen on the nights that she is rostered to work. The cooking job is on a part-time casual basis from 4pm-11pm; if there is little demand for meals in the restaurant then she does not work. Ellen says that overall, the flexibility of the job is good as she can get household chores done during the day. However, the unstable nature of the cooking job can be difficult, particularly because she does not have an employment contract guaranteeing her a certain number of hours a week:

Ellen: If I have budgeted for the week and then was not required to work; it puts a lot of pressure on us. For example, I budgeted for this week, then didn't get as many hours as I expected, and without much discussion. She [the employer] tried to talk with me about it, but really I had no choice, the other worker is the boss' niece and that may have been a factor. And I do want to do something about a contract...a worker left the restaurant, and then came back, and I have been told that I am now on only every second weekend. I didn't have any say on the matter and was just told what the new arrangements were.

However, Ellen sees some advantages to doing two jobs for the same employer:

Ellen: I am essentially doing two different jobs for the same people. It is better because I don't have to worry about two different sets of rules, or a different workplace. I know where I stand with my employers, and that doesn't change from job to job.

The only participant whose job did not involve some degree of flexibility as an accepted part of the job was Hannah, a night shift nurse in a public hospital. Hannah felt that her working hours, from 10pm to 6am, on the night shift at a public hospital were standard for her occupation.

5.3.3 Choosing non-standard employment

An important theme of the key informant interviews was discussing the motivating factors for working in non-standard jobs. All of the women said that they chose to work in non-standard work to some degree, because it allowed them to care for their children, especially when they were young. All the women were primary caregivers for their children and this factor featured in their work choice. All women I interviewed made comments indicating that to some extent they chose non-standard work in preference to traditional employment opportunities due to their child-care responsibilities. The women were unanimous in volunteering the view that they felt it was important to be at home when their children came home from school, or if it was possible, to collect the children from school themselves. When Ellen was asked, “Why do you work in non-standard employment?” she replied:

Ellen: To fit in with the children—I can’t work full-time and take care of the kids. I feel that they are my first responsibility. I shouldn’t have them in day-care all day, just so that I can work. I also get to come home and get things done around the house, like the kids’ lunch, chores, getting dinner ready. If I worked full-time from 9am to 5pm I wouldn’t get things done or be able to take the kids to kindy [kindergarten].

The women justified this sense of obligation to the children. When asked if she would prefer to work full-time at standard hours, Ellen replied:

Ellen: No, I want to spend time with the kids while they are young. I would like to return to full-time work when they are at school and I am making plans for that now.

Amanda had similar views to Ellen, but expressed concern about her absence from her son due to work, and the potential effects this might have. She explained that for the first five years of her son’s life she was the sole caregiver and that makes them very close:

Amanda: With my current job I can pick Sam²⁴ up from school, I don't get to take him to school, so I like to pick him up afterwards. I think [that] if I worked full-time I would find it hard to miss out on some of Sam's school things. I guess it is a kick back from being a sole parent with him, we are very close and he is used to me being around all the time, I guess I am used to it to. If my work causes problems with Sam and he was suffering because of it, I would probably give it up.

Angela also had a variety of reasons for working in non-standard employment, her decision was not guided solely by a desire to be around for her children after school, although that was clearly a factor. Angela was motivated by the fact that she knew the job and felt her children were old enough to organise themselves for school:

Angela: Well it had some flexibility and also it was what I knew really, because I had worked in airlines before. So from that point of view it did suit me. I think I was aware that I would have to compromise, there aren't very many jobs that you give you any flexibility really. I was expecting that I would probably have to work 9 to 5. At the moment it suits me to work the hours that I am doing, if there are extra hours going I always do them. I like to have the extra money so I would pick up extra hours if they are offered, but I don't know if I would want to work 40 hours per week, every week, not on shift work anyway, especially not on split shifts.

Charlotte said that when she had young children it was more convenient to work in non-standard work because there were a lot of other things to be done, however this is not the case now:

Charlotte: When I first started in this job my husband was a shift worker too. It meant that we worked at different times and I didn't have to rely on my mother to look after the girls. I am also very fussy so I get the house all clean while the girls were at school and then enjoy it for awhile, and get up to speed with all the other chores. But now I enjoy it for other reasons. Split shifts are good because I can go and get my hair done or go to the doctor, and I don't have to take time off work to do them. I wouldn't want to work full-time, sort of 9am to 5pm, because I like to have some time to myself and I wouldn't get that if I were at home when everyone else is.

²⁴ The name of "Amanda's" son has been changed.

Amanda was a sole parent for much of her son's early childhood. She needed to work but had an added responsibility of looking after her child. The flexible hours that Amanda enjoys in her job were useful when she was a sole parent:

Amanda: I have one child. I am not the sole caregiver. Legally I am, but now we [Amanda and her partner] have shared responsibility. I did work like this when I was single —but I relied on my parents for childcare during the mornings that I worked.

Hannah is a night shift nurse in a public hospital in a career that has spanned 15 years, from 1986 to the present day. Now that her children are young adults, providing and organising child-care is no longer an issue. However, Hannah feels that she does not have much choice other than to stay in her job and feels trapped:

Hannah: At this stage of my life, with my children having grown up, I wouldn't mind doing day shift or full-time, in a 9am–5pm kind of job. But there's not many positions going for me. I have to work, just to make ends meet. At the moment I can't make the choice to not work, at least for a little while longer.

In addition to discussion of the motivations for taking on non-standard work, the women also talked about the effects of the ECA on their unionisation and bargaining ability.

5.3.4 Effects on Union Membership and Bargaining

The women expressed a variety of views about unionisation, overall three of the women felt it had had a significant effect; all three women had been in the same job for at least 12-13 years. For example, Hannah discussed at length the enactment of the ECA and its effect on her working life in a public hospital. Specifically she argues that the bargaining process is fraught with personal and internal politics that seemed to be

passed over previously. When Hannah was asked about her views of the bargaining process she stated:

Hannah: We are under a collective contract that covers the nurses in your ward. We don't have to join the union but if you don't then you have to have an individual contract with the hospital. I don't think that I would do better out of an individual contract, I would have to go and negotiate with them personally. I don't feel like I had any personal input into the contract agreement but the union based their conditions on the majority opinion. I am happy with what was agreed...The unions actually had a hard time because the hospitals were separated into the different CHEs²⁵ by the government and we did find out that some hospitals have different pay rates for their nurses now than others. But then again the unions can say "Well look, the Whangarei nurses are getting this and this" and sometimes that helps to get better conditions...

...After the Employment Contracts Act was passed the second-tier nurses [enrolled rather than registered nurses] were scapegoated[sic] quite a bit, we felt quite threatened in our jobs. It was more by management, not the nurses themselves, we didn't always know that our jobs would be there in a week. They might have wanted us to be more productive but you can't really do that in a hospital, we are always productive because we are always tending one patient or another.

Both Charlotte and Sarah mentioned changes in their workplace following the enactment of the ECA. Both women work for the same airline, hold the same position within the company, and have worked for the company for 12 years and 13 years respectively. Charlotte reflected on the changes she has noticed since 1991:

Charlotte: The workers have lost a lot of money, we have lost penal rates such as travel allowances, shift allowances and meal allowances. We got an increase in our hourly rate but it is not enough to cover what we have lost, or the money we spend just so that we can work. I know that if I am not happy with the contract then I will probably have to find a job somewhere else. I have a pretty negative view of the ECA.

²⁵ Crown Health Enterprise

Angela was involved in the negotiation process for the airline workers as part of a team of employee representatives. We discussed how she viewed the process and its outcome:

Angela: We have a collective one. I was actually part of the team that negotiated it. There were more women on the team because of our industry having more women in it than men. It was quite a frustrating process actually; basically the contract covers a wide range of different employment and it was very hard to satisfy the needs of all the people within that. It covered people who are in administrative jobs at head office who work 9 to 5, it covered people in reservations, who worked Monday to Saturday but on a rostered shift basis, and it covered airport workers who work 24 hour, 7 day a week shifts. And there were lots of issues that were important to people working shift work that weren't important to other people and they felt that this group had an agenda that they weren't particularly interested in so it did tend to factionalise the process.

An interesting fact that came out of the interviews is that only one of the women was a union member. Hannah was a union member only because she would have to personally negotiate with her employer if she was not party to the collective contract. The airline workers were not in a union despite feeling that unions were both important and useful, but they did not feel a personal need to be a member as the following comment by Angela illustrates:

Angela: No, none of us are covered by a union. If we wanted to, we could join the Engineers' Union, and that was a possibility when we were doing the negotiations.

All of the women not in a union said that they would join a union if they needed to, but they were also unsure of what action by their employer would push them to it. All of them suggested that joining a union would be a last resort.

5.3.5 Job satisfaction

I asked all of the women if they were happy with their job, and received various responses. All women said that they needed to work in order to cover living costs, despite this, none of them mentioned remuneration as one of the reasons for job satisfaction. It is unclear whether the women felt that they should be paid more, however it highlights an area of the ECA that needs to be addressed. Sarah liked the variety she experienced in her job, and the fact that she did not have to take any facet of work home with her. Amanda enjoyed the fact that she did not have to answer to anyone and that there was a degree of flexibility in the daily tasks she was expected to perform. However, Amanda felt that she would rather have another job, one that is more challenging:

Amanda: Sometimes the job is pretty boring, or the complete opposite when the guys I look after can be a real handful. It is hard to get support from the management staff for those kinds of things. I really don't feel challenged by the job anymore, and there isn't any room for personal advancement unless you are a nurse. I am planning on studying nursing within the next year or two.

Angela had a different perspective:

Angela: I really like the job. I enjoy the job and the hours, while not ideal, are just part and parcel really. I suppose what I like about it is having a bit of time off during the week, even though I don't always like working on the weekend because it means I don't always get to do things with the kids, it is quite nice to get time off during the week especially as a single parent because you just need a bit of time when you haven't got everybody yelling at you. The only thing I find difficult is getting up in the middle of the night, especially in the middle of winter when it's freezing cold.

Hannah provided a different perspective. She highlighted a potential danger for women in that she felt that non-standard work, while good when her children were young, had limited her choices, and that the shift work made possible by the ECA would not be of

benefit to women in the long run in their career if they became tired of working split shifts

5.4 Summary

Overall, this chapter has discussed the results of analysis of the LMS data by gender. This analysis showed that contrary to the general trend toward a slowing of part time work, women were represented in non-standard work in increasing numbers between 1991-1999. The interviews with the women reported here raise questions which should be investigated further. First they suggest that women with children feel the ECA has helped create conditions which enable more flexible working hours for child-care. This does, however create some problems for planning their work, and one woman reported feeling consumed by the split shift regime. One woman involved in contract negotiations felt that the problems of women in non-standard work were not adequately recognised by her employers. Also, Hannah, an older worker, indicated that the flexibility is not as important later and that she felt non-standard work becomes a tiring trap for women after their children have grown up. I now turn in chapter six to examine the implications of this research for our understanding of the impacts of the ECA on women in non-standard work.

CHAPTER SIX

SUMMARY OF RESEARCH FINDINGS AND CONCLUSIONS

6.1 Introduction

In this concluding chapter, I consider the implications of the research reported here for women in non-standard employment. Drawing on the results of statistical analysis and key informant interviews with six women in non-standard work in Christchurch. I examine how the ECA has impacted on and affected women in non-standard employment in New Zealand with a view to filling in some of the gaps in current literature, while also highlighting areas of study that require further research and analysis. My discussion opens with a summary of the research findings reported in this thesis.

In chapter one I posed the following research question:

In what ways and to what extent did the Employment Contracts Act 1991 affect female workers in non-standard employment between 1991 and 1999 in New Zealand?

To answer this question I posed the following supplementary questions:

1. *What were the legislative provisions of the ECA 1991?*
2. *How do they differ from past legislative provisions?*
3. *What effects of the ECA on women workers in New Zealand were anticipated in public policy and feminist literature?*

4. *In what ways and to what extent did political debates at the time address the implications of the ECA for women workers?*
5. *In what ways and to what extent have employment patterns changed in non-standard work between 1991-1999 in New Zealand?*
6. *How do women in non-standard work report their experiences of the impacts of the ECA?*

I turn now to review the results of my research and the implications of these results for female workers in non-standard work.

6.2 The Legislative Provisions of the ECA: What Were the Changes

I begin with a review the results of my investigation into questions one and two:

1. *What were the legislative provisions of the ECA 1991?*
2. *How do they differ from past legislative provisions?*

In chapter three I examined the legislative provisions of the Employment Contracts Act (1991). In chapter three I argued that the ECA was based on the neo-liberal principles of free enterprise and minimal state intervention. This signalled a change in policy direction from previous industrial relations legislation and necessitated a move to a deregulated, decentralised and non-protective labour market. The significant changes to labour law were: the removal of industry based awards; the introduction of voluntary union membership and freedom of association; and the introduction of employment contracts that were subject to contract law.

I placed this review of the ECA within the wider context of social and economic reforms, which had been implemented by consecutive governments from 1984 (see chapter four). The economic reforms were based within a neo-liberal paradigm that emphasised minimal state intervention and free enterprise. The Employment Contracts Act was founded on these principles with the expectation from its proponents that it would create a flexible labour market that was efficient and more productive. Opponents of the ECA expected that it would have far-reaching consequences for workers in unstable and marginalised occupations. I argued that while the impact of the ECA was vigorously debated in the media at the time of its enactment there has been little research on the impact of the ECA on employed people. In contrast there has been a lot of research into the Act's effect on the employment prospects of the unemployed. I also argued that during the parliamentary debate of the ECA, politicians paid little attention to the effects of the ECA on women, particularly women who are already marginalised in the labour market.

When reviewing the disputed provisions of the ECA, I also discussed how they differ from past legislative provisions. Prior to 1991 New Zealand had a centralised, regulated and protected labour market, despite various legislative reforms aimed at deregulating the labour market. Facets of the previous industrial relations legislation were: compulsory union membership, centralised bargaining, national awards, occupation based bargaining and government wage fixing.

The Industrial Conciliation and Arbitration Act (1984) was the keystone of industrial relations legislation until the passage of the ECA in 1991²⁶. There had been a number of changes to labour law, however none of them went as far as the ECA did in removing state protection in employment relations. Much of the legislation before the ECA retained the state as the protector of the worker through compulsory union membership or union bargaining rights.

In light of this history it is not surprising that the voluntary union membership aspect of the ECA was regarded by many as anti-worker and anti-union. It was feared that it would encourage conflict and confrontation between employers and employees. There was also concern that the ECA would allow employers to exploit employees, thus forcing wages down and the deterioration of conditions; and that there would be no freedom of choice because there is an inherent imbalance in the bargaining position between employer and employee; and that the workers who need protecting would not be protected because the union may not get access to them.

Proponents of the ECA expected that it would free the worker from the stranglehold of the unions and finally give the worker autonomy in the labour market, as with any other market. Those in favour of the ECA argued that workers should have the freedom to choose their bargaining agent, and could elect to represent her- or himself. Similarly, employers could choose not to negotiate with the employees' elected bargaining agent. These beliefs were founded on the notion that the labour market operated as a level playing field for all actors within it.

²⁶ Although other attempts had been made at deregulating the labour market, for example the Labour Relations Act (1987).

In chapter one I argued that the trend of women towards part-time and non-standard work was growing. This is contrary to reports that the trend towards part-time has slowed since 1991 and the enactment of the ECA (*New Zealand Herald*, May 20 1999). The overall growth of part-time has indeed slowed, however the number of women in part-time and non-standard work has continued to grow. I now turn to review the results of my investigations into supplementary question three:

3. *What effects of the ECA on women workers were anticipated in public policy and feminist literature?*

6.2 Effects of the ECA on Women Workers in New Zealand: Public Policy and Feminist Literature

In chapter three I also addressed research supplementary question three, I examined the existing research on the impact of the ECA on women. Despite fervent opposition from feminists to the legislation at its enactment the first in depth study of the effects of the ECA on women was not published until 1994. Carl Davidson and Marianne Bray (1994) conducted the first in-depth examination of the effects of the ECA on women in part-time work in New Zealand. The study examined the realities of part-time work for women through the findings of key informant interviews. Davidson and Bray identified a number of factors that characterise part-time work: a limited range of occupations; poor rates of pay; lack of security; and that women dominate part-time and non-standard work. The study highlighted some important issues for women in part-time work: a large number of women were in part-time work because they felt that they had no other choice; many felt constrained by factors in the private sphere, for example family constraints; many women were unaware of the minimum rights guaranteed under

statute, however, some women were aware of them but did not feel comfortable pushing for the recognition of them in their employment contract.

In chapter three I discussed the quantitative study conducted by Peter Brosnan and Pat Walsh (1996). This study concluded that there had been no significant change in the structure of the workforce as a result of the ECA. They argued that there was no change in the size of the non-standard female labour force from 1991-1995 and conclude that this indicates “the period of the ECA is not associated with an increase in non-standard female employment” (Brosnan and Walsh, 1996: 8-9). The authors treated men and women as equal entities within the labour market and paid cursory attention to the unpaid work done by women, and the effects that a change in labour patterns may have on the ability of women to do unpaid work.

The ECA stimulated criticism from feminists and feminist organisations. It was argued that women start off disadvantaged in the labour market and the ECA would handicap women further. Du Plessis argued that the ECA was a double edged sword as it provided the opportunity for women to improve their position in paid work, but it was designed to minimise state intervention on industrial relations. Du Plessis argued that National Party policy further disadvantaged women in that it wanted to foster individual autonomy while also encouraging people to depend on family support networks before approaching government agencies for assistance. She argues that women are over-represented among those constructed as dependants in society.

Some of the issues raised by the ECA, and the impact that it has had on New Zealanders, both employed and unemployed, and men and women, have been discussed in detail. This study showed that there was very little research into the effects of the ECA on women in general and more specifically women in non-standard work.

6.3 The Political Debate

In chapter four I addressed question four:

4. *In what ways and to what extent did political debates at the time address the implications of the ECA for women workers?*

In chapter four I discussed the arguments in support of and in opposition to the ECA. I examined the Third Reading of the Employment Contracts Bill (the Parliamentary debate). Parliamentary debates contextualise the legislative provisions of a Bill because it is the arena used by politicians to state their case.

The National Party lauded the ECA as the mechanism that would make workplaces more egalitarian, efficient and productive because workers would finally be accorded the right and freedom to choose bargaining representatives in the workplace. Unions would be forced and expected to work for their members, rather than have access to workers as of right. Employers and employees would agree to bargaining structures, ensuring that all parties were satisfied with the outcome.

The Labour Party contended that the ECA would result in increasing poverty and marginalisation for workers in the secondary labour force or non-standard employment. Labour expected that voluntary union membership would affect those who needed representation and support most, that is, women, Maori, and Pacific Island people who are likely to be in the secondary labour force, in isolation from other workers, and who are likely to lack the confidence to bargain effectively.

The debate over the ECA was not limited to Parliament. There was discussion of the legislation in many facets of society, from feminist associations, employer's groups and business organisations. Feminist groups echoed the sentiments of the Labour Party

based on the belief that there is a gendered division of labour. The gendered division of labour segregates women into occupations that are low skilled, low paid, not valued in the market economy and are traditionally thought of as 'women's work'. It was argued that women and minority groups would be disadvantaged by the legislation and that the ECA did not recognise the difference in circumstances of actors within the labour market.

The NZBR was opposed to the regulated and protective nature of industrial relations in New Zealand. The NZBR argued that workers would benefit from the employment relationship only when given the means to dictate workplace relations and employment conditions. National Party policy was in large part directed by the NZBR's philosophy.

Overall, those in favour of the legislation did not acknowledge that there would be some sectors of society who would be disadvantaged by the bargaining process and the introduction of freedom of association. The politicians opposed to the Act argued that it would exacerbate the inherent inequality in the relationship between employer and employee; this would be a problem for women and minority groups specifically.

6.4 Changing Labour Patterns: What Do the Statistics Show? What Do Women Say?

In chapter five I examined the Labour Market Statistics (LMS) and I discussed the views of women in non-standard work in order to address questions five and six:

5. *In what ways and to what extent have employment patterns changed in non standard work between 1991-1999 in New Zealand?*

6. *How do women in non-standard work report their experiences of the impacts of the ECA?*

I review the results of my investigation into question five before reporting on the conclusions of the in-depth interviews with six women in non-standard work.

6.4.1 Changing Trends of Employment

Chapter five examined the changes in employment patterns in non-standard work after the enactment of the ECA. My analysis of the statistical data describing the changes in patterns of non-standard work between 1991 and 1999 has produced some interesting results. The *New Zealand Herald* (Thursday, May 20, 1999) reported that the growth of part-time and non-standard work has slowed since the ECA was passed. The combined numbers of men and women in part-time work has slowed, however the data for women shows continued growth, from 228,000 1991 to 297,800 women in part-time work in 1999.

It is important to take into consideration the growing number of women who identify as self-employed and without employees. A contributing factor to the growth of numbers of women, may be the contracting out of work traditionally occupied by women. I used the example of commercial cleaning companies. It is becoming a common practice to contract with a worker to clean a specific floor of a building, or the whole building itself. This measure is designed to increase the flexibility of the worker, often to the advantage of the employer who may not contract to pay penal rates to the employee. Although the workers may be working in a part-time job, they are categorised as contract workers.

A growing trend since 1993 is in the numbers of women who work part-time and who are multiple job-holders. There are three times as many women than men in this category. The number of women who are employed part-time and looking for additional hours has risen steadily from 50,200 in 1991 to 79,900 in 1999.

The analysis of the LMS data shows that the shift toward part-time and non-standard work has not slowed for women. The overall trends for women have been of growth, specifically in non-standard work. The statistical data does not give an indication of why more and more women are entering non-standard work. I now turn to a discussion of some of the reasons that women work in non-standard employment, and I discuss the impact and effect of working in part-time and non-standard work on women.

6.4.2 The Experiences of Women in Non-Standard Work: the Impacts of the ECA

An integral part of this study was interviewing women to ascertain some of the reasons that women continue to enter into non-standard work. We discussed a number of themes during the interviews, they were: flexibility of working hours; choosing non-standard employment; union membership and bargaining; and job satisfaction.

6.4.2a Flexibility of Hours

Five out of the six women interviewed identified flexibility of hours as an important aspect of their job. All women said that without flexible hours they would not be able to do the household chores because they would not have the time outside of work hours. The flexibility was useful if one of the women wants to swap a shift with another

worker, all felt comfortable asking another employee to cover a shift them if it was needed.

Three of the women worked in the same job for an international airline. All worked split shifts that started at 4am on most working days and all felt that their days were consumed by work when they started at 4am, their day working day does not finish until at least 5pm. For these women flexibility of hours is not as inviting as it once was, following the enactment of the ECA they felt that they were forced to accept a decrease in penal rates or find another job. The women did not feel confident that they would be able to find another job that would be suitable.

Ellen works two different periods of time each day; she generally felt that the flexible nature of the job was good, however there were times when she felt that she had to accept a change in hours without proper consultation. This is compounded by the fact that she does not have a written employment contract with her employer. One of the participants did not feel that her job offered much flexibility, her hours have been the same for some time and are not likely to change in the future.

6.4.2b Choosing Non-Standard Employment

All women chose to work in non-standard when they decided to start a family. Five of the women stated that they had few worries with childcare because they would be working when their partners were at home with the children. One of the women, Angela, is a sole parent and took the job because she had previously worked in the airline industry and she needed a job. Angela felt that her children were old enough to get themselves to school and home again and she also enjoys having some time to herself during the day when her children are at school.

Hannah is a night shift nurse, she chose to work nights when her children were young. Her husband would care for the children while she was at work. She no longer feels the need to work nights because all her children adults, however she does not feel like she has a choice but to continue working in non-standard employment. There are two factors influencing her decision, she needs to continue working in order to meet living costs, and she feels that there are few jobs available for enrolled nurses. Hannah feels that she is trapped in non-standard employment that is no longer suitable to her situation. Hannah's story suggests that women need to be aware of all possible scenarios when choosing to work in non-standard employment.

6.4.2c Effects on Union Membership and Bargaining

Only one of the women I spoke with was a union member, however three of the women were employed under a collective contract negotiated on their behalf by employees from the airline and Hannah is contracted to her employer with a collective agreement negotiated by the union. Ellen and Amanda are not union members and do not have an employment contract either. Hannah is a union member by default; only union members could be covered by the collective contract negotiated by the union, Hannah does not feel that she has the confidence to bargain with her employers on an individual basis. Three of the women, Hannah, Charlotte and Sarah have been employed in their current jobs for at least 12 years and have experienced the effects of the ECA on bargaining. Both Charlotte and Sarah said the ECA significantly affected the content of their contracts, they are no longer entitled to meal allowances, travel allowances and penal rates for working weekends. Angela was on the team that negotiated with the employer,

she noticed that the bargaining process tended to be overrun by different factions, and that there was little cohesion among all the workers.

Hannah felt that the ECA polarised workers into opposing groups, this was most noticeable to her when a decision was made to contract with individual wards within the hospital. Hannah felt her job was threatened by management, not other nurses. She felt unsure that her job would still be there from week to week. This was a problem when hospitals were run under a management model that seeks to build efficient and productive workplaces.

6.4.2d Job Satisfaction

During the interview I asked all participants if they were happy in their jobs. Each of the women said she was happy, but all had different reasons. All of the women enjoyed something about their job: Ellen enjoyed spending time around other adults; Amanda enjoyed the flexibility of her job; Angela expressed enjoyment in her job and said the only part she did not enjoy was getting up very early. Some of the women interviewed were not satisfied in their job because they were not challenging enough. Another woman, Sarah, felt that she was 'used and abused' in her job, particularly after penal rates were no longer offered by the employer. Charlotte and Sarah indicated that their jobs were more enjoyable when they were rewarded financially with penal rates and bonuses.

6.5 Drawing Conclusions: The Effects and Impacts of the ECA on Women in Non-Standard Work

I now turn to the research question posed at the beginning of this thesis:

In what ways and to what extent did the Employment Contracts Act 1991 affect female workers in non-standard employment between 1991 and 1999 in New Zealand?

In 1999 the *New Zealand Herald* reported that the shift towards part-time work has slowed since the passing of the ECA in 1991. This study shows that this is not the case for women in part-time and other non-standard work. The number of women in part-time and non-standard work has continued to grow since 1991. Of those women in part-time work, increasing numbers are working non-standard hours. This thesis discusses some of the reasons behind this and examines the effects and impacts of the ECA on women in non-standard work.

In chapters three and four I highlighted some of the expected effects of the ECA held by politicians and interest groups. I now turn to a discussion of the extent to which these expectations were fulfilled in the reality of working in non-standard employment under the ECA and the effects and impacts of ECA on women in non-standard work as a result.

6.5.1 Voluntary Unionism

Proponents of the ECA expected voluntary unionism to benefit women in a number of ways. It would give women the opportunity to structure bargaining to their own needs and wants; it would allow employees to negotiate the value of their labour with their employers, rather than have unions determine an individual's worth, thus allowing the parties to strike a balance between the value of the workers and the cost to the employer; and ultimately the ECA would give workers autonomy in the workplace such as they enjoy in all other areas of life.

Opponents argued that the ECA would further marginalise women, Maori and Pacific Island peoples in a secondary labour force that was unstable, low paid and low skilled. The Labour Party argued that if employers and employees structure their own bargaining arrangements, employees would only have the freedom to agree to demands made by employers. Moreover, often women are in a weak bargaining position and some will not have the confidence to push for better conditions and remuneration. Labour argued that voluntary unionism will hurt those who need protecting the most. Feminists and women's organisation in the large part agreed with the Labour Party on the expected effects of the ECA.

Analysis of the interview findings shows that among the women interviewed, only one was a union member. Hannah chose to be covered by the collective contract negotiated by the nurses union, however her motivation was based on her lack of confidence to individually bargaining with her employer. Hannah did not join her union voluntarily; rather it seemed to be a better choice than negotiating with her employers. Hannah's experience highlights the effects that the Labour Party anticipated. Hannah mentioned that after the enactment of the ECA many nurses felt their jobs were threatened and that they had been made scapegoats for other problems within the health system and within the hospitals they worked in. Hannah is not confident that she would be able to find another job should she not accept the terms and conditions of a collective contract.

Three women worked for an international airline, Angela, Charlotte and Sarah, and were covered by a collective contract. This contract was not negotiated by a union, but by employee representatives who worked for the airline. The negotiations did not fulfil all of the employee's requirements, for example, Sarah reports the loss of penal rates. However the women were successful in negotiating a new condition stipulating that a

split shift cannot cover more than 15 hours per day. The experience of these women is an example of what the National Party expected to happen as a result of the ECA. However, these women are confident in themselves, probably as a result of dealing with people all day in their jobs as customer service agents.

The other women also were not union members and did not have an employment contract. Ellen worked on a small, isolated worksite in a rural town. She stated that she often felt that she had 'no real choice' in the terms and conditions of her employment. On occasion she has tried to bargain with her employer, but came to the conclusion that she would have to accept the terms offered or try to find another job, which was not a possibility. Ellen's story supports the Labour Party's claim that employers would enjoy freedom under the ECA and workers would only have the freedom to accept the terms and conditions offered by the employer.

The findings of the research suggest the expectations of voluntary unionism have indeed played out in reality. The women who are confident in themselves and their work are likely to be more successful in bargaining than women who are marginalised or in isolated workplaces.

6.5.2 The Freedom to Choose?

The National Party and NZBR argued that the freedom to dictate one's own employment terms and conditions was a right that every worker should have. They argued that the ECA accorded this right to workers and it would result in an increase in wages and better working conditions, so long as the worker was worth the price he or

she was asking.²⁷ The individual's freedom to choose was based on notion that a labour market is no different from any other market and all actors within it are on a level playing field.

Opponents argued that this would not be the case in reality, especially for women and minority groups who are more likely to be in marginalised jobs with little bargaining power. More importantly, Labour MPs argued that a labour market *is* different from other markets because the livelihood of the actors within it is at stake. Feminists argued that the self-interested and individualised nature of the ECA would disadvantage women because women are more altruistic than men are. Feminists argue that women cannot realistically be expected to be self-interested in contract negotiations when in all other areas of life they are expected to think of others before themselves.

Feminists argued that women often have other constraints on their time, such as family care commitments, and are expected to account for them when choosing to work. The statistical data suggests that more women are entering into non-standard work. There may be a number of factors influencing the decision to do so. For example, a woman who is in a partnership, and has children, may need to work in order to make ends meet. She may also be expected to do the grocery shopping, clean the house, do the clothes washing and help the children with their homework. This situation is a typical description of the women in this study. Only one of the participants was a sole parent, all others were married or in a de facto relationship. Of interest to this study is that all of the women stated that they chose to work in non-standard work when they had children, or had the sole responsibility for their children. Without exception the women felt that

²⁷ An individual's worth would be determined by the market value of her or his skills and experience.

they had a better chance of meeting their responsibilities at home if they were not committed to working full-time and during the day. Hannah stated that while she chose to work the night shift in a hospital while her children were young it does not suit her to do so now. She feels that she is trapped because she does not feel that she has no choice but to continue working the night shift, as there are few jobs available to her. Angela still enjoys the flexible nature of her job even though she no longer has to worry about childcare, while Sarah sometimes feel consumed by the split shifts especially when he farm she runs with her husband also consumes much of her day.

This study concludes that the ECA provided the women in the study with an opportunity to work when previously, it may have been more difficult to work around the issues of childcare and other responsibilities. However Hannah's experience suggests that when women no longer need to consider flexibility for child-care, or would simply rather work in more standard employment there may not be other jobs available to suit their needs. In this light, Hannah's experience suggests that the flexibility made possible under the ECA could work against the women who want to move into standard work. Opponents of the ECA argued that this is an expected the result of the Act as it serves only to help those who are in a powerful bargaining position.

The effect the Employment Contracts Act 1991 on women in non-standard work between 1991 and 1999 is multi-faceted. The ECA has contributed to the growing trend of women in non-standard employment, because it provides the opportunity to work flexible hours. The ECA has also contributed to the de-unionisation of women in the non-standard workforce as it has become more difficult, and more expensive, to access the workplaces of women in this sector of the labour market. The bargaining structures

created under the ECA proved useful for the women in jobs that fostered self-confidence, such as the customer service agents for the airline. The women who worked in isolated workplaces have found that their bargaining power is limited, this was noticeable with Ellen who works in a rural town with few options for employment. The impact of this is that women in non-standard work will have less bargaining power in contract negotiations and will ultimately be forced to agree to terms and conditions that are unfavourable to their situation.

6.6 Considerations for Further Research

This thesis aimed to fill in some of the gaps in existing literature on the Employment Contracts Act 1991. This study is indicative only, it reports on the in-depth interviews with six women. The results of this discussion can not be generalised to a wider population. It was also beyond the scope of this study to address all of the issues facing women in non-standard employment. Within these limitations, this study addresses the need for more research into the way the ECA has affected women workers. The study also addresses the need to provide more opportunities for women in non-standard work to speak about their experiences of the ECA.

Areas of concern which require greater future study include the following questions:

1. *Why are women in non-standard work less likely to be represented by a union in contract bargaining?*
2. *Why are increasing numbers of employed women looking for another job? Do they want more work or different work, or better remuneration?*

3. *What proportion of women who identify as self-employed and without any employees are contract workers or casual workers? What has been the effect of the ECA on these women?*

Since this study began the ECA has been repealed and replaced by the Employment Relations Act 2000 (ERA). The ERA is intended to remedy some of the effects of the ECA (of which some have been discussed in this study). An important line of enquiry for the future could be to examine the effect that the ERA has had on women in non-standard work, and more generally the effects on workers patterns of employment.

At the beginning of this thesis I argued that there were contradictory assessments of the impact that the ECA had on women workers. I was also driven by my own experience as a part-time cleaner in Christchurch working in a typical non-standard job while was employed in this job while also studying at university. My workmates were typically women with children, some of them were sole caregivers, and some of them held more than one job. A number of family members were employed in non-standard jobs; they also had children to care for and were sometimes the sole caregiver for the children. This lead to a personal interest in reporting on the experiences of women in non-standard work.

This study highlights the need for women to speak about their experiences and for the experiences to be considered in research. My study suggests the effects of the ECA are varied. The numbers of women in non-standard work are continuing to grow despite a slowing of the trend overall; and non-standard work can provide flexibility in terms of hours that suit some women with young children, but can be inconvenient and restrictive at other stages in their life course.

My findings suggest that the women in this study chose to work in flexible labour (a result of the ECA), however, some women are feeling trapped in their work and feel that they do not have many options outside of non-standard work.

If we are to understand the effects of labour market policies and legislation like the ECA on women, that is, their concerns and the difficulties they face, we need to consider using more qualitative research to supplement national statistics on labour patterns.

Appendix 1: Points for Discussion in Interviews

Working in non-standard employment

1. Are you employed as a:
 - Part time worker
 - Casual worker
 - Temporary worker

These categories will be collectively referred to as “non-standard employment”.

2. How long have you worked in non-standard employment?
3. Why do you work in non-standard employment?
4. What do you like about working in non-standard employment?
5. What do you dislike about working in non-standard employment?
6. Do you work in more than one part time job?

Conditions of Employment

7. Are you employed under an individual or collective contract?
8. If you are employed under an individual contract, how did you perceive the bargaining process?
9. Did you bargain with your employer or did you elect a representative?
10. Did you feel that you had any influence on the content of the contract or opportunity to do so?
11. Are you happy with the contract that you agreed to with your employer?

Unpaid Work

12. Do you have children? Are you the sole caregiver for your children?
13. How does working in non-standard employment affect your home life, that is, do you find the daily running of the household is interrupted by going to work at non-standard hours?
14. If you had an emergency situation at home (with sick children or a household problem) would you feel comfortable about taking leave from work? If so, why? If not, why not?
15. Would you prefer to work full time? If so, why? If not, why not?
16. Which is more important to you, paid work or unpaid work?
17. Do you rely on paid work to make ends meet, or to supplement a partner's income?

CONSENT FORM

University of Canterbury

New Zealand's Working Poor: A Decade of Change

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I have read and understood the description of the above-named project. On this basis, I agree to participate in this interview, with the understanding that my anonymity will be preserved. I understand that the findings of the research may be used in Rebecca Cathro's Masters Thesis. I understand that should I have any concerns about this research project that I am at liberty to discuss them with the supervisor, Dr John Henderson. I also understand that I may decline this request to participate in the interviews or withdraw from the project at any time, this includes withdrawing any information I have provided. Confidentiality of information and personal details will be protected in the thesis, as pseudonyms will be used.

I request/do not request (delete one) a copy of the findings of this research.

Name

Signed

Date

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